

# *TOWN OF LANESBOROUGH*

COMMONWEALTH OF MASSACHUSETTS

OFFICE OF THE

**PLANNING BOARD**



## **ZONING BYLAW - 2012** **WITH AMENDMENTS & UPDATES**

**April 2015**

(Reviewed by Administration Office on 4-16-15, confirmed original text & that amendments on February 2013 & June 2014 were added)

**ZONING BY-LAW  
TOWN OF LANESBOROUGH, MASSACHUSETTS**

**Table of Contents**

<b>SECTION I – TITLE, AUTHORITY AND PURPOSE .....</b>	<b>3</b>
<b>SECTION II – DEFINITIONS .....</b>	<b>3</b>
<b>SECTION III –ZONING DISTRICTS .....</b>	<b>9</b>
<b>SECTION IV – USE REGULATIONS .....</b>	<b>9</b>
<b>SECTION V – INTENSITY REGULATIONS .....</b>	<b>15</b>
<b>SECTION VI – NON-CONFORMING USES AND STRUCTURES .....</b>	<b>18</b>
<b>SECTION VII – SPECIAL OVERLAY DISTRICTS .....</b>	<b>19</b>
A. WATER SUPPLY PROTECTION OVERLAY DISTRICT .....	19
B. FLOOD PLAIN/WETLANDS PROTECTION OVERLAY DISTRICT .....	25
<b>SECTION VIII – SPECIAL PROVISIONS .....</b>	<b>26</b>
A. EROSION AND SEDIMENT CONTROL .....	26
B. PARKING REQUIREMENTS .....	27
C. OFF-STREET LOADING REQUIREMENTS .....	28
D. SIGNS .....	28
E. FENCING .....	29
F. VISIBILITY AT CORNERS .....	29
G. FAST-FOOD EATING ESTABLISHMENTS .....	30
H. FILLING STATIONS AND CONVENIENCE STORE REQUIREMENTS .....	30
I. RETAIL, SERVICE AND INDUSTRIAL COMPLEXES .....	31
J. WIRELESS COMMUNICATIONS FACILITIES .....	33
K. EXTERIOR DINING AND ENTERTAINMENT AREAS. ....	38
L. SPECIAL EVENTS. ....	38
M. OUTDOOR ADVENTURE RECREATION FACILITY .....	39
<b>SECTION IX – PERMITS .....</b>	<b>39</b>
<b>SECTION X – ADMINISTRATION AND ENFORCEMENT .....</b>	<b>43</b>

**ZONING BY-LAW  
TOWN OF LANESBOROUGH, MASSACHUSETTS**

**SECTION I - TITLE, AUTHORITY AND PURPOSE**

A. **PURPOSE.** To protect the health, safety, convenience, and general welfare of all the inhabitants of Lanesborough by promoting the most efficient use of land while preventing over-crowding of the land and undue congestion of population, thus lessening danger from fire, and providing adequate light and air, pursuant to the General Laws, Chapter 40A inclusive and all additions and amendments thereto.

B. **ENACTMENT.** Now therefore, be it enacted by the Town of Lanesborough, Massachusetts, this by-law to be known as "Zoning By-Law, The Town of Lanesborough, Massachusetts", as follows:

**SECTION II – DEFINITIONS**

**Abandonment** - The term "abandonment" as used herein shall mean voluntary discontinuance of a non-conforming use of buildings or land for a period of at least two (2) years. Examples of "abandonment" include, but are not limited to, the following:

1. Premises have been devoted to another use.
2. Characteristic equipment or furnishing of non-conforming use have been removed from premises and have not been replaced by same or similar.
3. Failure to renew the license required.
4. Failure to take all necessary steps to resume the non-conforming use.

**Accessory Structure** – A structure on the same lot (or on a lot adjacent to such lot, if in the same ownership) customarily incidental and subordinate to the principal residential structure.

**Accessory Uses** - A use of a building, structure or land customarily incidental and subordinate to the principal use of a building, structure, or land located on the same lot with such principal use or building, or on a lot adjacent to such lot, if in the same ownership.

**Adult Entertainment** - Adult Bookstore: An establishment having as a substantial or significant portion of its stock-in-trade printed matter, books, magazines, picture periodicals, motion picture films, video cassettes, DVDs, paraphernalia and other matter which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in Mass. Gen. Laws c. 272, §31.

Adult Live Entertainment Establishment: Establishment which features live entertainment which consists of entertainers engaging in sexual conduct or nudity as defined in Mass. Gen. Laws c. 272, §31.

Adult Motion Picture Theater: An enclosed building used for presenting motion picture material distinguished by an emphasis on matter depicting, describing or relating to sexual conduct or sexual excitement as defined in Mass. Gen. Laws c. 272, §31.

**Agricultural Use** – The use of land for farming in all its branches and the cultivation and tillage of the soil, dairying, the production, cultivation, growing and harvesting of any agricultural, floricultural, horticultural or viticultural commodities, the raising of livestock, the keeping of poultry, swine, cattle, and other domesticated animals used for food purposes, bees, fur-bearing animals and any practices, including forestry or lumbering operations performed by a farmer; including necessary farm structures, vehicles and equipment.

## **ZONING BY-LAW**

### **TOWN OF LANESBOROUGH, MASSACHUSETTS**

**Apartment Building Complex** – A group of residential structures containing 5 or 6 dwelling units each.

**Assisted Living Residence** - the use of an area of land including structures thereon which meets all of the following criteria:

1. provides room and board; and
2. provides, directly by employees of the entity or through arrangements with another organization which the entity may or may not control or own, assistance with activities of daily living for three or more adult residents who are not related by consanguinity or affinity to their care provider; and
3. collects payment or third party reimbursements from or on behalf of residents to pay for the provision of assistance with the activities of daily living or arranges for the same.

**Bed and Breakfast** – A dwelling used as a home for the residential owner and as temporary guest lodging. The home is to be the primary and legal residence of the owner. No more than six (6) rooms may be used for guest lodging. Breakfast from the kitchen is permitted.

**Buffer Zone** - An area of a specified size which shall be bordered by a six (6) foot wide strip densely planted with shrubs or trees which are of a type that may be expected to form a year round dense screen at least six (6) feet high within three (3) years, or a wall, barrier or fence of uniform appearance at least five (5) feet high but not more than six (6) feet above finished grade. Such screening shall be maintained in good condition at all times within said buffer zone. No principle or accessory structure, no driveways nor any off-street parking or loading areas or storage or other use shall be permitted within said buffer zone. Utility easements may be provided, if necessary, to insure continuity with adjoining properties.

**Building** - An independent structure having a roof supported by columns or walls, resting on its own foundation, and designed for the shelter, housing or enclosure of persons, animals or property of any kind.

**Cabin** – See Motel or Cabin

**Campground** - A wooded area of not less than ten (10) acres, including a buffer zone 250 feet wide between the campsite and abutting land, with a maximum of four (4) sites per acre to be used as a density regulation for the total area, equipped with facilities for overnight camping and travel trailers. Facilities shall include restrooms with lavatories, toilets and showers. An office may be included but a restaurant or other retail establishment may be provided only if permissible elsewhere under this by-law. Camping on a seasonal basis from April 1 to December 31.

**Childcare Facility** – A day care or school age childcare program, as those terms are defined in MGL Ch. 28A, Section 9.

**Children's Camp** - Any place of camp character, as the term is commonly understood, used wholly or in part for recreational purposes and accommodating for profit or under philanthropic or charitable auspices five or more children who are not members of the family or personal guests of the operator. The site may or may not be equipped with tents or temporary or permanent buildings, and may be operated as a day camp or as a resident camp.

**Convenience Store** – The use of an area of land including structures thereon, which is used or designed to supply motor vehicles with fuels, such as gasoline or diesel fuel, oil and minor accessories, and to sell at retail cold and hot drinks, packaged foods, snacks, other foods, tobacco products, newspapers, magazines and similar convenience goods. No motor vehicle repairs of any kind are to be made on the premises. No seated dining allowed.

**Dwelling Unit** - One (1) or more rooms, with cooking, living, sanitary and sleeping facilities.

**Dwelling, Single Unit** - A detached residential building designed for use as a dwelling unit, but not including mobile

**ZONING BY-LAW  
TOWN OF LANESBOROUGH, MASSACHUSETTS**

homes whether placed on a foundation or not.

**Dwelling, Double Unit** - A detached residential building containing two (2) dwelling units

**Dwelling, Multi Unit** - A residential building containing a maximum of four (4) dwelling units.

**Exterior Dining Area** – A permanent accessory to restaurants, cafés, coffee shops, ice cream shops and similar food service establishments comprised of an exterior dining area that is defined by fencing, bollards, railings, or hard/soft landscaping features.

**Farmer's Market** – A public market place where produce and fresh foods from the area are sold by the people who have grown, gathered, raised or caught them, directly to consumers.

**Fast Food Eating Establishment** - A place that has as its principal business the sale of prepared or quickly prepared foods or drinks in disposable containers or wrappers for consumption either on or off the premises that may also include a drive-through window where food can be ordered and picked-up.

**Filling Station** - An area of land including structures thereon, which is used or designed to be used to supply motor vehicles with gasoline, oil, grease, and customary accessories and possibly including facilities for lubrication, washing, polishing and minor repairs.

**Gross Leasable Area (GLA)** -Total floor horizontal area of the interior of the premises (less all interior common areas which shall be defined as areas and facilities which are: (i) not leased to a tenant or are leased, but used for storage, or (ii) are not leasable for the purpose of the sale of merchandise such as, but not limited to, patios, interior landscaped and planted areas, ponds and fountains, escalators, stairways, walkways, elevators, vestibules, all general and service corridors, service areas, loading docks, hallways, public restrooms, community rooms or areas, roofs or roof structures, equipment, mechanic or utility rooms, storage areas, signs and any special services locations provided by Property Owner for the common or joint use and benefit of all tenants, their employees, customers and invitees). No portions of the exterior of the premises shall be included in the calculation of GLA related to parking requirements.

**Height of a Building** - The vertical distance measured from the average pre-construction topography, as defined by current US Geological Survey maps, around the perimeter of the building to the highest point of the roof ridge of the structure.

**Home Occupation** – The use of a room or rooms in a dwelling or accessory building by a self-employed resident occupant provided there is no external evidence of such business other than permitted signs.

**Hospital/Clinic**- A building used for the diagnosis, treatment or other care of human ailments.

**Hotel or Inn** - A building which offers lodging to paying guests on a transient basis.

**Impervious Surface** - Material or structure on, above or below the ground that does not allow precipitation or surface water to penetrate directly into the soil.

**Kennel**- Structure and other facilities for the keeping of more than three (3) dogs, more than six (6) months old, for sale, breeding or boarding purposes.

**Lot** - An area or parcel of land, not including any area in any lake or great pond, shown as a separate and distinct lot on a plan or by other means recorded as such in the Berkshire County Registry of Deeds or registered as such in the Berkshire County Land Court, or a combination of such lots sufficient in size, frontage and access from a public way to meet the requirements of this By-Law.”

**ZONING BY-LAW  
TOWN OF LANESBOROUGH, MASSACHUSETTS**

**Lot, Access** - Access to the major portion of a lot must not be less than the minimum frontage. In addition, access to the buildable portion of the lot must be free of natural barriers to travel, such as rivers, swamps, cliffs, ravines, ponds, etc.

**Lot, Corner** - Any lot which occupies the interior angle at the intersection of two (2) streets, the center line of which makes an angle of less than 135 degrees of each other.

**Lot Coverage** - Includes all buildings, structures, internal roads, parking areas, driveways, sidewalks, etc. that are impervious to water. Parking areas, driveways, etc. not covered with impervious material are not considered as part of lot coverage.

**Lot Frontage** - The width of a lot as measured at the front street line. In the case of a corner lot, the owner shall have the privilege of specifying which street lot line shall be deemed to be the front street line, and shall so specify when obtaining a building permit.

**Mobile Home and/or Trailer** - A vehicle without motor power designed to be drawn by a motor vehicle and to be used for temporary office, living or sleeping purposes.

**Mixed Use** - Dwelling units may be located above the first story of a structure which is primarily used for a permitted use and secondarily used for residence. The minimum gross floor area for the first dwelling unit shall be 720 square feet; each additional dwelling unit shall be at least 600 square feet.

**Motel or Cabin** - A building or group of buildings, whether detached or connected units, designed as individual sleeping units, each with separate entrances and toilet facilities, and with off-street parking facilities on the same lot. An office may be included, but a restaurant may be provided only if permitted elsewhere under this by-law.

**Motor Vehicle Dealership** - The storage and display of motor vehicles intended for sale. A repair garage and/or filling station may be included where such are not the principal business and no external evidence of such use exists except permitted signs.

**Municipal Use** – Any use of land or buildings in accordance with the general laws governing municipal powers and functions including participation in regional uses.

**Non-Conforming Use** - A lawfully existing use at the time of adoption or amendment of this by-law, which is not in conformity with the regulations of the district in which it is located.

**Nursing or Convalescent Home** - A private residential institution equipped to care for persons unable to look after themselves, such as the aged or chronically ill.

**Outdoor Adventure Recreation Facility** – land, buildings, improvements, facilities and related appurtenances, to be used for the commercial operation of a ropes course or other challenge type courses, zip lines, canopy tours, hiking and biking trails (excluding trails for motorcycles, atvs and utvs), laser tag and other similar outdoor recreational activities typically associated with aerial adventure parks.

**Parking Lot, Commercial** - An open area used for the parking of automobiles for a fee.

**Piggery** - Structures and other facilities for the keeping of any number of swine.

**Private Club** - Land and/or buildings used exclusively by members of an organized group and not open to the public.

## **ZONING BY-LAW**

### **TOWN OF LANESBOROUGH, MASSACHUSETTS**

**Profession** - The occupation of physician, surgeon, dentist, lawyer, clergyman, realtor or similar occupation.

**Repair Garage** - Any garage, other than a private garage, available to the public, operated for gain, and used for storage and/or repair of motor vehicles.

**Restaurant** - An establishment serving food & drink to patrons seated in a dining area with service being provided by waitstaff. Take-out orders may be permitted as an incidental and subordinate percentage of the business. A restaurant may not offer drive-through or window service.

**Rest Home** - A residential establishment that provides special care for convalescents and aged or infirm persons.

**Retail Business** - Business establishments that are primarily engaged in the selling of goods, wares or merchandise to the general public.

**Retail, Service and Industrial Complex** - A building or complex of buildings for retail, commercial or industrial, or office, hotel, motel or other service uses with a gross floor area of 5,000 square feet or greater on a common site or sites of two (2) acres or greater which is integrated in terms of utilities and services and/or in respect to the conduct of business activities on the site.

**Setback, Front** - The shortest distance between the front property line and the front of the building or structure.

**Setback, Rear** - The shortest distance between the rear property line and the rear of the building or structure.

**Setback, Side** - The shortest distance between the side property line and the side of the building or structure.

**Shopping Mall** - A group of not less than 20 commercial establishments (including, without limitation, retail, food, entertainment and various service uses which may include retail stores, restaurants and theaters) containing a total Gross Leasable Area for all establishments of not less than 500,000 square feet, together with ancillary utility facilities, parking areas and driveways, roads, landscaped areas and buffer areas. A Shopping Mall may consist of one or more lots and one or more buildings, owned by one or more Property Owners, provided that these lots and buildings are subject to an operating agreement with the areas used in common (including the central enclosed mall area, the parking garages, parking and circulation areas, and the area between the permissible impervious surface area and the boundaries of the development lot) under integrated management, and provided that the separate lots and buildings are developed with a unified approach to pedestrian ingress and egress, parking, truck loading, vehicular entrances and exits, drainage, utilities, and management of landscaped and buffer areas.

**Sign** - Any word, number, emblem, picture, design, trademark or other device designed to inform or attract the attention of persons not on the premises on which the device is located, whether affixed to the ground, or a building, structure, or vehicle, or other conveyance. Sign area measurements shall be taken on only one face of the sign, but advertising matter may be displayed on both sides of any permitted sign. For the purpose of this by-law, the following shall not be included in this definition memorial signs, tablets, historical markers, legal notices, identifications, informational, directional, or warning signs erected or required by government agencies, signs painted on or attached to duly registered motor vehicles; and signs inside of store windows as commonly used in the conduct of retail business.

**Site Plan** - A plan indicating, but not limited to the following: The location of all existing and proposed buildings, structures, access roads, driveways, parking areas and other open spaces, and all proposed site improvements, including recreational areas, fences, screening, walks and signs. A site plan or any portion thereof involving engineering, architecture or land surveying, shall be prepared by a duly authorized engineer, architect, landscape architect or land surveyor. A site plan may be prepared on one or more sheets to show clearly the information required in the By-Law and to facilitate the review and approval of the plan.

**ZONING BY-LAW**  
**TOWN OF LANESBOROUGH, MASSACHUSETTS**

**Story** - That portion of a building contained between any floor and the ceiling above it. If more than half the portion is below the finished grade, it is not considered a story.

**Story, Half** - A story under a sloping roof at the top of a building, the floor of which is not more than two (2) feet below the wall plate.

**Street** - A public way, or a private way open to travel by the general public, or a way shown on a plan of a subdivision approved by the Planning Board.

**Street Line** - The right-of-way line of a street as established under public authority, or as shown on a plan approved by the Planning Board or, if neither of the above apply, a line parallel to the center line of the street measured back a distance equal to one-half of the normally required right-of-way.

**Structure** - Anything constructed or erected at a fixed location on the ground, above the ground or under the ground, to give support, provide shelter or satisfy other purposes, including, but not limited to, permanent property line fences, swimming pools, tennis courts.

**Trailer and/or Mobile Home** - A vehicle without motor power designed to be drawn by a motor vehicle and to be used for temporary office, living or sleeping purposes.

**Trade** - A mechanical occupation such as plumber, electrician, machinist, carpenter, welder or similar occupation.

**Toxic or Hazardous Materials** - All substances defined as toxic or hazardous under Massachusetts General Laws (MGL) Chapter 21C and 21E and 310 CMR 30.00. This includes any substance or mixture of physical, chemical or infectious characteristics posing a significant, actual or potential hazard to human health, if such substance or mixture were discharged to land or water. Toxic or hazardous materials include, without limitation, synthetic organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids or alkalis, and also include such products as solvents and thinners in quantities greater than normal household use.

**Veterinary Hospital** – a facility used for the diagnosis, treatment, boarding for medical purposes or other medical care of small domesticated animals and/or farm animals and rehabilitation of wildlife in accordance with [321 CMR 2.13](#).

**Yard** - The areas of the lot between the principal structure and the lot lines.

**Yard, Front** - The area of the lot between the front of the principal structure and the front lot line.

**Yard, Rear** - The area of the lot between the rear of the principal structure and the rear lot line.

**Yard, Side** - The area of the lot between the side of the principal structure and the side lot line between the front and rear yards.

**Zoning Enforcement Officer (ZEO)** – The Building Inspector of the Town of Lanesborough is the person responsible for the enforcement of this Zoning By-Law.



**ZONING BY-LAW  
TOWN OF LANESBOROUGH, MASSACHUSETTS**

**SECTION III – ZONING DISTRICTS**

**ESTABLISHMENT OF ZONING DISTRICTS**

A. TYPES OF DISTRICTS. For the purpose of this by-law, the Town of Lanesborough is hereby divided into six districts as follows:

R	Residential
R-A	Residential and Agricultural
B	Business
LB	Limited Business
MR	Major Retail
I	Industrial

B. TYPES OF OVERLAY DISTRICTS.

Flood Plain/Wetlands Protection Overlay District  
Water Supply Protection Overlay District

C. THE ZONING MAP. The boundaries of each of the above districts and as hereinafter referred to are hereby established as shown on a district boundary map (entitled "Zoning Map of Lanesborough, Massachusetts," dated November 13, 2012) on file in the office of the Town Clerk at the Town Hall. The Zoning Map, with all explanatory matter thereon, is hereby declared to be a part of this by-law.

D. DISTRICT BOUNDARY LINES. The district boundary lines as shown on the zoning map are intended to follow street lines, railroad property lines, the low water line of the town brook and the center line of power lines, all where indicated on the map, and other lines where shown by dimension figures or indicated otherwise on the map. The base line for such dimension figures shall be the center line of the indicated street. Lot and map numbers on the Zoning Map refer to the 2008 assessor maps on file with the Board of Assessors at the Town Hall.

**SECTION IV- USE REGULATIONS**

A. USES PERMITTED. Uses permitted as a matter of right in a district are denoted by a "✓" under the district heading in the Table of Permitted Uses. The uses are subject to restrictions specified elsewhere in this by-law.

B. USES REQUIRING SPECIAL PERMITS. Uses designated "**ZBA**" (Zoning Board of Appeals) or "**PBP**" (Planning Board Permit) in the Table of Permitted Uses may be authorized by Special Permit of the SPGA (Special Permit Granting Authority), in accordance with the provisions of Section IX-B of this by-law.

C. DISTRICTS PERMITTED USES: Buildings, structures and premises may be used for any of the following purposes listed in the Table of Permitted Uses under the appropriate districts:

**ZONING BY-LAW  
TOWN OF LANESBOROUGH, MASSACHUSETTS**

<b>Table of Permitted Uses</b>						
<b>RESIDENTIAL USES</b>	<b>R</b>	<b>R-A</b>	<b>B</b>	<b>LB</b>	<b>MR</b>	<b>I</b>
Single dwelling unit	✓	✓	✓	✓		
Double dwelling unit	✓	✓	✓	✓		
Multi-unit dwelling (3 to 4 units)		✓	✓	✓		
Conversion of a single to Double dwelling unit		✓	✓	✓		
Conversion of a single or double dwelling unit to multi-unit dwellings		✓	✓	✓		
Apartment Building Complex			<b>PBP</b>	<b>PBP</b>		
<b>ACCESSORY USES</b>	<b>R</b>	<b>R-A</b>	<b>B</b>	<b>LB</b>	<b>MR</b>	<b>I</b>
Accessory uses such as but not limited to patios, breeze-ways, outdoor fire-places, storage sheds, and swimming pools	✓	✓	✓	✓		
Practice of a profession by a surgeon, physician, clergyman, architect, engineer, attorney or similar professional person in a dwelling without limit as to resident employees but with a limit of one non-resident employee and provided there is no external evidence of any profession other than permitted signs	✓	✓	✓	✓		
Practice of a profession by a surgeon, physician, clergyman, architect, engineer, attorney or similar professional person in a dwelling , or office building without limit to as to the number of employees and provided there is no external evidence of any profession other than permitted signs		✓	✓	✓		
The use of a room or rooms in a dwelling or accessory building for a home occupation or trade conducted by a resident of the dwelling without limit as to resident employees but with a limit of one non-resident employee and provided there is no external evidence of any business other than permitted signs	✓	✓	✓	✓		
Bed and Breakfast	✓	✓	✓	✓		
Renting of rooms and/or providing of board to not more than four persons in a dwelling	✓	✓	✓	✓		
Exterior Dining Area			✓	✓	✓	
<b>AGRICULTURAL USES</b>	<b>R</b>	<b>R-A</b>	<b>B</b>	<b>LB</b>	<b>MR</b>	<b>I</b>

**ZONING BY-LAW  
TOWN OF LANESBOROUGH, MASSACHUSETTS**

The use of land or structures for the primary purpose of agriculture, horticulture, floriculture or viticulture including facilities for the sale of produce, wine and dairy products insofar as a majority of such products for sale have been produced by the owner of the land on which the sales facility is located, provided that:	✓	✓	✓	✓	✓	✓
<b>a.</b> Such activities are limited to parcels of more than 5 acres except in R-A zones; <b>b.</b> Piggeries and fur farms shall be located 500 feet from any lot line, except that 1 or 2 pigs may be kept in a R-A zone only in a suitable structure no less than 75 feet from any lot line; <b>c.</b> Any land use for the pasturing of animals must be properly fenced. <b>d.</b> Structures, shelters and waste storage for farm animals shall be located 75 feet from any lot line.						
Raising of crops not for commercial use	✓	✓	✓	✓	✓	
Keeping of fowl provided that accessory structures used for their care shall be located at least 20 feet from any lot line	✓	✓	✓	✓	✓	✓
Farmers Market	✓	✓	✓	✓	✓	✓
Commercial greenhouses		✓	✓	✓	✓	✓
<b>RECREATIONAL USES</b>	<b>R</b>	<b>R-A</b>	<b>B</b>	<b>LB</b>	<b>MR</b>	<b>I</b>
Campgrounds		<b>ZBA</b>	<b>ZBA</b>	<b>ZBA</b>		
Children's camps		✓	✓	✓		
Golf courses (USGA regulation size)		✓	✓	✓		
Private clubs		<b>ZBA</b>	<b>ZBA</b>	<b>ZBA</b>	<b>ZBA</b>	
Adult Entertainment						<b>PBP</b>
Rifle ranges		<b>ZBA</b>				
Ski areas		<b>ZBA</b>				
Commercial places of entertainment such as theaters, bowling alleys, billiard rooms, night clubs, arcades, roller skating rinks, gymnasiums, health clubs driving ranges & miniature or pitch & putt golf courses			✓		✓	
Outdoor Adventure Recreation Facility				<b>PBP</b>		
<b>MUNICIPAL USES</b>	<b>R</b>	<b>R-A</b>	<b>B</b>	<b>LB</b>	<b>MR</b>	<b>I</b>
Municipal uses	✓	✓	✓	✓	✓	✓
<b>RELIGIOUS &amp; EDUCATIONAL USES</b>	<b>R</b>	<b>R-A</b>	<b>B</b>	<b>LB</b>	<b>MR</b>	<b>I</b>
Religious & Educational Uses (M.G.L. c. 40A s. 3)	✓	✓	✓	✓	✓	✓
<b>COMMERCIAL USES</b>	<b>R</b>	<b>R-A</b>	<b>B</b>	<b>LB</b>	<b>MR</b>	<b>I</b>
Motels and cabins		<b>ZBA</b>	✓	✓		

**ZONING BY-LAW  
TOWN OF LANESBOROUGH, MASSACHUSETTS**

Hotels and Inns			✓	✓	✓	
Nursing homes			✓	ZBA		
Hospitals/Clinics			✓	ZBA		
Assisted Living Residence			✓	ZBA		
Rest Home			✓	ZBA		
<b>COMMERCIAL USES</b> (continued)	<b>R</b>	<b>R-A</b>	<b>B</b>	<b>LB</b>	<b>MR</b>	<b>I</b>
Funeral homes and mortuaries			✓	ZBA		
Veterinary hospitals		ZBA	✓	✓		
Transportation services such as bus stations and taxi stands			✓	✓		
Shopping Mall					PBP	
Restaurants, café's, taverns, coffee shops and snack bars			✓	✓	✓	
Fast food eating establishments			PBP	PBP	✓	
Mixed Use			✓	✓	✓	
Stores, salesrooms and showrooms for the conduct of retail business that DO NOT exceed 3000 sf of gross floor.			✓	✓	✓	
Stores, salesrooms and showrooms for the conduct of retail business that exceed 3000 sf of gross floor area but have less than 5000 sf of gross floor area.			✓	PBP	✓	
Retail and service complexes (5,000 sq ft or more gross floor area) Per section VIII-I			PBP		PBP	
Service establishments, such as, but not limited to; barber shops, beauty salons, tailor shops, laundries, tanning and nail salons, dry cleaning shops, shoe repair shops, provided only non-explosive & non-flammable solvents are used and no work is done on the premises for retail outlets elsewhere.			✓	ZBA	✓	
Banking, business and other professional offices and office buildings			✓	ZBA	✓	
Repair shops such as for radio, television, appliance and other similar consumer articles			✓	ZBA	✓	
Package stores			✓	ZBA	✓	
Shops for the making of custom articles, the major portion of which is sold at retail on the premises NOT TO exceed 3000 sf.			✓	✓	✓	
Places of business of plumbers, painters, electricians, carpenters, building & construction contractors and similar uses compatible with the uses above mentioned			✓	✓	✓	
Motor vehicle dealerships and car washes			✓	✓	✓	
Filling stations and repair garages, except as allowed within motor vehicle dealerships			PBP	PBP	PBP	
Convenience store			PBP	PBP	PBP	
Kennels		ZBA	ZBA	ZBA		
<b>INDUSTRIAL USES</b>	<b>R</b>	<b>R-A</b>	<b>B</b>	<b>LB</b>	<b>MR</b>	<b>I</b>

**ZONING BY-LAW  
TOWN OF LANESBOROUGH, MASSACHUSETTS**

Industrial complexes (5,000 sq ft or more gross floor area) Per section VIII-I			<b>PBP</b>		<b>PBP</b>	<b>PBP</b>
Warehouses and buildings and yards used for storage, provided such yards are fenced from the view of abutting lots and the street as required under Section VIII-E and F			✓			✓
Wholesale, or distributing establishments, provided no substantial quantities of flammable, explosive or toxic materials are involved			✓			✓
Printing shops, machine shops, welding shops and sheet metal shops, provided that no power forges are employed nor more than one hundred horsepower be used as total capacity in electric motive power for each five thousand square feet of floor area employed for such purposes			✓			✓
Laboratories; research, experimental and testing						✓
Light manufacturing such as of clothing, portable electric appliances, leather goods, machinery parts and accessories, small tools and plastic processing such as molding and extruding, provided no power forges are employed, no basic materials are processed, and no more than one hundred horsepower be used as total capacity in electric motive power for each one thousand square feet of floor area employed for such purposes						✓
Machine, welding, sheet metal and printing shops and other similar uses, provided that no power forges are employed and that no more than one hundred horsepower be used as total capacity in electric motive power for each one thousand square feet of floor area employed for such purposes						✓
Mixing and packaging of chemicals, drugs, detergents and other consumer and industrial products provided no chemical reactions are involved and any premises used for flammable materials meet the provisions of the applicable fire code of the National Fire Protection Association and that no explosive or poisonous substances are used in substantial quantities						✓
Quarries, gravel processing plants and cement mixing plants						<b>PBP</b>
Foundry Casting of metal not causing noxious fumes or odors						✓
Wind Turbines and wind electrical generator towers provided that the setback from any lot line is minimally one and one half times the overall height		<b>ZBA</b>			<b>ZBA</b>	<b>ZBA</b>
Wireless Communications towers		<b>PBP</b>	<b>PBP</b>	<b>PBP</b>	<b>PBP</b>	<b>PBP</b>

**D. PERFORMANCE STANDARDS**

1. **PURPOSE.** These performance standards are established to permit nuisances to be measured in terms of their potentially dangerous or objectionable elements rather than by classification of use which may not reflect actual conditions or nuisances. They are also established to provide controls to protect the community from dangerous or objectionable elements and to protect any potential use from arbitrary exclusion. New construction, new facilities and new activities shall not be permitted except in compliance with these standards. Any use already established on the effective date of this ordinance shall not be so altered or modified as to conflict with, or further conflict with, said performance standards.

**ZONING BY-LAW  
TOWN OF LANESBOROUGH, MASSACHUSETTS**

2. **REGULATION OF NUISANCE ELEMENTS.** No land, or building or structure in any district shall be used or occupied for non-residential purposes in such a manner so that it will cause any dangerous, injurious, noxious or otherwise objectionable fire, explosion or other hazard; electrical or other disturbance; glare, or other substance, condition or element (referred to herein as "dangerous or objectionable elements") in such amount as to adversely affect the surrounding area of premises; provided that any use permitted by this ordinance may be undertaken and maintained in the respective district if it conforms to the regulations limiting dangerous and objectionable elements at the specified point or points of the determination of their existence, as provided herein.

3. **LOCATION WHERE DETERMINATIONS ARE TO BE MADE FOR ENFORCEMENT OF PERFORMANCE STANDARDS.** The determination of the existence of any dangerous or objectionable elements shall be made:

a. At the points where such elements shall be most apparent for fire and explosion hazards, for radioactivity and electrical disturbances, for smoke and other forms of air pollution.

b. At or beyond the property lines of the use creating such elements for glare, and for odors wherever the effect is greatest.

4. **STANDARDS TO BE ENFORCED.** Lighting, Glare and Heat. Every use shall be so arranged that any glare or radiant heat produced is shielded so that it is not perceptible at or beyond any boundary line of the lot on which the use is located. Exterior lighting including, but not necessarily limited to, lighting of exterior walls of buildings from an external light source, lighting of parking areas, walks and drives shall be of such intensities and shielded in such a manner as to divert direct light away from and minimize indirect light cast on adjacent property or public ways.

5. **FIRE AND EXPLOSION HAZARDS.** All activities involving and all storage of flammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and adequate fire-fighting and fire suppression equipment and devices approved by the town fire department.

6. **OUTDOOR STORAGE AND WASTE DISPOSAL.** No materials or wastes shall be deposited on a lot in such form or manner that they may be transferred off the lot by natural causes or forces.

a. All materials or wastes which constitute a fire hazard or which may be edible by or attractive to rodents or insects shall be stored outdoors only in closed containers.

b. No discharge at any point into any public sewer, private sewage disposal system, or stream, or into the ground of any materials of such nature or temperature as can contaminate any water supply, or cause the emission of dangerous or offensive elements, shall be permitted, except in accordance with standards approved by the Massachusetts Department of Public Health and the Board of Health of the Town of Lanesborough.

**ZONING BY-LAW  
TOWN OF LANESBOROUGH, MASSACHUSETTS**

**SECTION V- INTENSITY REGULATIONS**

A. DIMENSIONAL REQUIREMENTS. Buildings or structures hereafter erected, altered or added to in any district shall adhere to the minimum requirements shown in the following Intensity Table, except as noted in this section.

Intensity Table									
Zone	Type of Use	Minimum Lot Dimensions		Minimum Setback Dimensions			Maximum Lot Coverage (%)	Stories	Maximum Height (ft.)
		Area (sq. ft.)	Frontage (ft.)	Front (ft.)	Side (ft.)	Rear (ft.)			
R	Single Dwelling Unit	10,000	75	25	10	30	30	2.5	35
R	Double Dwelling Unit	15,000	100	25	10	30	30	2.5	35
R	Other than Dwellings	20,000	100	35	20	30	30	2.5	35
LB & B	Single Dwelling Unit	22,500	100	25	20	30	30	2.5	35
LB & B	Double Dwelling Unit	27,500	150	25	20	30	30	2.5	35
LB & B	Multi-Unit Dwelling (3 Units)	32,500	150	30	20	40	30	2.5	35
LB & B	Multi-Unit Dwelling (4 Units)	37,500	200	30	20	40	30	2.5	35
LB & B	Apartment Buildings	See Section V-H	200	50	50	50	30	2.5	35
LB & B	Other than	22,500	100	35	20	30	(LB - 30) (B - 50)	2.5	35

**ZONING BY-LAW  
TOWN OF LANESBOROUGH, MASSACHUSETTS**

	Dwellings <sup>1</sup> & 2									
R-A	Single Dwelling Unit	87,120	200	30	20	40	20	2.5	35	
R-A	Double Dwelling Unit	87,120	200	30	20	40	20	2.5	35	
R-A	Multi-Unit Dwelling (4 Units)	108,900	250	30	20	40	20	2.5	35	
R-A	Other than Dwellings	87,120	200	40	40	50	20	2.5	35	
I	All <sup>1</sup>	87,120	200	35	40	40	50	N/A	35	
MR	Commer- cial <sup>2</sup>	87,120	200	35	0 <sup>3</sup>	40	40	97	N/A	65

**Notes**

1. See Section VIII-G for special dimensional requirements applicable to fast food eating establishments.
2. See Section VIII- H for special dimensional requirements applicable to filling stations and convenience stores.
3. No side setback required within buildings between lots. 40 foot setback outside at property perimeter boundary

B. In accordance with General Laws, Chapter 40A, Section 5A or any amendments thereof, any lot lawfully laid out by plan or deed recorded in the Registry of Deeds prior to the adoption of this by-law may hereafter be built upon for residential use should it not meet the frontage and area requirements in the Intensity Table, provided that it is in a district permitting residential use, has a minimum area of 5,000 square feet and a frontage of 50 feet and conforms to this by-law except as to area and frontage, and at the time of adoption of this by-law such lot was held in ownership separate from that of adjoining land.

C. HEIGHT REGULATION EXCEPTIONS. Height restrictions shall not include cupolas, silos, conveyors, smokestacks, water tanks or towers, flagpoles, antennae, chimneys, transmission towers, monuments, windmills or wind turbines, or structures or appurtenances suspended from trees or poles and used in connection with Outdoor Adventure Recreation Facilities.

D. BUFFER ZONES. Where a "B", "LB", "MR" or "I" District abuts any residential district; a buffer zone shall be established by doubling the appropriate side and/or rear setback dimensions listed in the Intensity Table for premises in such "B", "LB", "MR" or "I" District use for purposes other than those permitted in the abutting residential districts. If these requirements as set forth are different than any other buffer zone requirements as set forth under any conditional use as set forth in this by-law then the buffer zone of greater width shall be required.

E. CORNER LOT YARDS. On corner lots, the front yard setback requirements shall apply to both streets and/or ways.

F. FRONT SETBACK EXCEPTIONS. Where existing buildings on both sides of a proposed building within 150 feet of said proposed building are less than the setback dimensions set forth in the Intensity Table, the average setback dimension



**ZONING BY-LAW  
TOWN OF LANESBOROUGH, MASSACHUSETTS**

of the two adjacent existing buildings shall be the required setback for the proposed building, but in no case shall this be less than 15 feet.

**G. ACCESSORY USES AND STRUCTURES.** Rear and side yards may contain accessory buildings or structures provided they cover not more than 30% of the combined area of such yards and are located not less than 10 feet from any lot line, front yards may contain accessory buildings or structures provided they meet the front setback requirements of this by-law, that they cover not more than 30% of the area between the front setback line and the front of the main building, and that they are located not less than 10 feet from either side lot line, where such is deemed necessary and not detrimental to the neighborhood. The Zoning Board of Appeals under Section IX-B may grant special permission to locate an accessory building or structure closer to a lot line than 10 feet, but in no case less than 5 feet. In any district, no accessory use shall be permitted which alters the character of the premises on which it is located or which violates the provisions of Section IV, Paragraphs A-C; Sections V and VI.

**H. APARTMENT BUILDING COMPLEX REQUIREMENTS.** In addition to or in modification of other applicable provisions and requirements of this by-law, the following shall apply to apartment buildings.

1. The minimum lot area for the first dwelling unit of an apartment building complex shall be two acres and there shall be a minimum of 15,000 (fifteen thousand) square feet of additional lot area for each additional dwelling unit in the development. When apartments are shown to have access to a municipal sewer, the Planning Board may reduce these lot requirements.
2. In an apartment complex, more than one principle building shall be permitted on a lot provided that such lot meets the minimum frontage requirements for the district as specified in Dimensional Requirements.
3. The maximum lot coverage of building, structures, internal roads, and parking areas, shall not exceed the maximum percent coverage requirement set forth in the Intensity Table.
4. No portion of any enclosing wall of any building and no portion of any other permissible structure shall be nearer than 50 feet to any property line or to any other building.
5. Within the complex, usable land areas shall be provided for playgrounds and other recreational uses, suitably graded and landscaped, to serve the needs of the proposed development in accordance with reasonable site planning standards.
6. No structure shall exceed two and one-half (2 1/2) stories or thirty five feet in height except as listed in Section V.
7. Not less than five (5) dwelling units shall be provided for in any one building.
8. No space shall be considered available for parking which reduces the effective width of a driveway, providing access more than dwelling unit, to less than sixteen (16) feet.
9. Parking and play areas shall be so designed and located as to be safely and conveniently accessible from the buildings they are intended to serve.
10. An apartment complex having more than forty (40) dwelling units shall have a minimum of two access roadways from a public way.
11. Within the complex, vehicular and pedestrian circulation facilities shall be provided for safe and convenient use in accordance with reasonable site planning standards.
12. All streets throughout the complex shall conform with the standards as set forth in the "Subdivision Rules and

**ZONING BY-LAW  
TOWN OF LANESBOROUGH, MASSACHUSETTS**

Regulations" of the Town of Lanesborough. The Planning Board may reduce these requirements if in the public interest.

13. Front yards and all open areas shall be suitably landscaped and maintained with grass, trees, shrubs, and/or walks.
14. The proposed complex shall so be located within relation to major thoroughfares and uses outside the development as not to create traffic hazards or congestion.
15. The proposed complex shall be so located that essential community services, including water supply, sewer system, drainage, police and fire protection shall be available and adequate for the complex based on reports and recommendations from appropriate agencies, or that suitable provision will be made assuring these services.

**SECTION VI - NON-CONFORMING USES AND STRUCTURES**

**A. NON-CONFORMING USES AND STRUCTURES.**

1. The lawful use of any structure or land existing at the time of the adoption of this amended by-law may be continued, even if not in conformity with its provisions.
2. A structure lawfully begun under a building permit or Special Permit issued before the first publication of notice of the required public hearing by the Planning Board on these by-law amendments may be continued to completion and the lawful use of the structure may be continued even if not in conformity with the amended by-law.
3. The Building Inspector with approval by the Board of Health of those features which come under its jurisdiction may issue building permits for:
  - a. The alteration, reconstruction, extension or structural change to a one-family or two-family dwelling on a lot meeting the requirements of Section V but non-conforming because of failure to meet one or more of the requirements of the Intensity Table provided this does not increase the non-conforming nature of such a structure;
  - b. Reconstruction of a one-family or two-family dwelling on a lot not meeting the requirements of Section V provided that the size of the structure and the location of the structure on the lot shall not be changed;
  - c. The expansion or reconstruction of existing structures for the primary purpose of agriculture, floriculture, horticulture, or viticulture.
4. Requirements for extension, reconstruction or change in use.
  - a. Any pre-existing non-conforming structure or use may be rebuilt or re-established within two (2) years if damaged or destroyed by fire or other catastrophe.
  - b. Pre-existing non-conforming structures or uses may be extended, altered or changed to another non-conforming use by Special Permit from the Zoning Board of Appeals provided that the Board finds that such change, extension or alteration shall not be substantially more detrimental to the neighborhood than the existing non-conforming use.
  - c. The Zoning Board of Appeals may impose reasonable conditions on applications for Special Permits designed to lessen the detrimental impact of any non-conforming use on adjacent properties and the general neighborhood whenever such is authorized to enlarge, expand, extend or convert to another non-conforming use under the provisions of this section.

**ZONING BY-LAW  
TOWN OF LANESBOROUGH, MASSACHUSETTS**

- d. A non-conforming use of land or structure which has been abandoned or not used for a period of two (2) years or more shall not be re-established. Any future use of such premises shall conform to this by-law.

**SECTION VII – SPECIAL OVERLAY DISTRICTS**

**A. WATER SUPPLY PROTECTION OVERLAY DISTRICT**

**1. PURPOSE OF DISTRICT.** The purpose of this Water Supply Protection District is to:

- a. Promote the health, safety, and general welfare of the community by ensuring an adequate quality and quantity of drinking water for the residents, institutions, and businesses of the Town of Lanesborough;
- b. Preserve and protect existing and potential sources of drinking water supplies;
- c. Conserve the natural resources of the Town of Lanesborough and:
- d. Prevent temporary and permanent contamination of the environment.

**2. SCOPE OF AUTHORITY.** The Water Supply Protection District is an overlay district superimposed on the zoning districts. This overlay district shall apply to all new construction, reconstruction, or expansion of existing buildings and new or expanded uses. Applicable activities and uses in a portion of one of the underlying zoning districts that fall within the Water Supply Protection District must additionally comply with the requirements of the Water Supply Protection District Bylaw. Uses prohibited in the underlying zoning districts shall not be permitted in the Water Supply Protection District.

**3. DEFINITIONS**

**Aquifer:** Geologic formation composed of rock, sand or gravel that contains significant amounts of potentially recoverable water.

**CMR:** Code of Massachusetts Regulations.

**DEP:** Massachusetts Department of Environmental Protection.

**Water Supply Protection District:** Those land area(s) designated on a map adopted pursuant to this bylaw that provide recharge to an existing or planned public drinking water supply well. The water Supply Protection District includes all areas designated as a Zone II and approved by the DEP.

**Hazardous Material:** Any substance or mixture of physical, chemical, or infectious characteristics posing a significant, actual, or potential hazard to water supplies or other hazards to human health if such substance or mixture were discharged to land or water. Hazardous materials include, without limitation: synthetic organic chemicals; petroleum products; heavy metals; radioactive or infectious wastes; acids and alkalis; solvents and thinners in quantities greater than normal household use; and all substances defined as hazardous or toxic under M.G.L. c.21C and 21E and 310 CMR 30.00.

**Hazardous Waste:** Any waste defined in the Massachusetts Hazardous Waste Regulations, 310 CMR Section

**ZONING BY-LAW  
TOWN OF LANESBOROUGH, MASSACHUSETTS**

30.010. This includes, but is not limited to, waste oil, waste solvents, waste oil-based paint and waste pesticides.

**Impervious Surface:** Material or structure on, above, or below the ground that does not allow precipitation or surface water to penetrate directly into the soil.

**Landfill:** A facility established in accordance with a valid site assignment for the purposes of disposing solid waste into or on the land, pursuant to 310 CMR 19.006.

**M.G.L.:** Massachusetts General Law

**Petroleum Product:** Petroleum or petroleum by-product including, but not limited to: fuel oil; gasoline; diesel; kerosene; aviation jet fuel; aviation gasoline; lubricating oils; oily sludge; oil refuse; oil mixed with other wastes; crude oils; or other liquid hydrocarbons regardless of specific gravity. Petroleum product shall not include liquefied petroleum gas including, but not limited to, liquefied natural gas, propane or butane.

**Non-sanitary wastewater:** Wastewater discharges from industrial and commercial facilities containing wastes from any activity other than collection of sanitary sewage including, but not limited to, activities specified in the Standard Industrial Classification (SIC) Codes set forth in 310 CMR 15.004(6).

**Open Dump:** A facility operated or maintained in violation of the Resource Conservation and Recovery Act (42 U.S.C. 4004(a)(b)), or state regulations and criteria for solid waste disposal.

**Potential Drinking Water Sources:** Areas that could provide significant potable water in the future.

**Recharge Areas:** Areas that collect precipitation or surface water and carry it to aquifers. Recharge areas include DEP approved Zone I, Zone II, or Zone III areas. 4

**Septage:** The liquid, solid, and semi-solid contents of privies, chemical toilets, cesspools, holding tanks, or other sewage waste receptacles. Septage does not include any material that is a hazardous waste as defined by 310 CMR 30.000.

**Sludge:** The solid, semi-solid, and liquid residue that results from a process of wastewater treatment or drinking water treatment. Sludge does not include grit, screening, or grease and oil which are removed at the head-works of a facility

**Treatment Works:** Any and all devices, processes and properties, real or personal, used in the collection, pumping, transmission, storage, treatment, disposal, recycling, reclamation, or reuse of waterborne pollutants, but not including any works receiving a hazardous waste from off the site of the works for the purpose of treatment, storage, or disposal.

**Very Small Quantity Generator:** Any public or private entity, other than residential, which produces less than 27 gallons (100 kilograms) a month of hazardous waste or waste oil, but not including any acutely hazardous waste as defined in 310 CMR 30.136.

**Waste Oil Retention Facility:** A waste oil collection facility for automobile service stations, retail outlets, and marinas which is sheltered and has adequate protection to contain a spill, seepage, or discharge of petroleum waste products in accordance with M.G.L. c.21. s.52A.

**Zone I:** The DEP designated protective radius around a public water system well or well-field.

**ZONING BY-LAW  
TOWN OF LANESBOROUGH, MASSACHUSETTS**

**Zone II:** The DEP approved area of an aquifer which contributes water to a well under the most severe pumping and recharge conditions that can be realistically anticipated as defined in 310 CMR 22.00.

**4. ESTABLISHMENT AND DELINEATION OF WATER SUPPLY PROTECTION DISTRICT**

a. For the purposes of this District, there are hereby established within the Town of Lanesborough certain groundwater protection areas, consisting of aquifers or recharge areas which are delineated on a map. This map is at a scale of 1 inch to 1,000 feet and is entitled, "Water Supply Protection District, Town of Lanesborough", dated September 1, 1993. This map is hereby made a part of the Town of Lanesborough zoning bylaw and is on file in the Office of the Town Clerk.

**5. DISTRICT BOUNDARY DISPUTES**

- a. If the location of the District boundary in relation to a particular parcel is in doubt, resolution of boundary disputes shall be through a Special Permit application to the Special Permit Granting Authority (SPGA). Any application for a Special Permit for this purpose shall be accompanied by adequate documentation.
- b. The burden of proof shall be upon the owner(s) of the land to demonstrate that the location of the District boundary with respect to a parcel(s) of land is uncertain. At the request of the owner(s), the Town of Lanesborough may engage a professional engineer, hydrologist, geologist, or soil scientist to determine more accurately the boundaries of the District with respect to individual parcels of land, and may charge the owner(s) for the cost of the investigation. Amendments to the Water Supply Protection District require Town Meeting approval.
- c. Where the boundary line of the Water Supply Protection District divides a lot or parcel, the requirements established by this bylaw shall apply only to the portion of the lot or parcel located within the WSPD.

**6. PERMITTED USES**

- a. The following uses are permitted within the Water Supply Protection District, provided that all necessary permits, orders, or approvals required by local, state, or federal law are also obtained:
- i. conservation of soil, water, plants, and wildlife;
  - ii. outdoor recreation, nature study, boating, fishing, and hunting where otherwise legally permitted;
  - iii. foot, bicycle and/or horse paths, and bridges;
  - iv. normal operation and maintenance of existing water bodies and dams, splash boards, and other water control, supply and conservation devices;
  - v. maintenance, repair, and enlargement of any existing structure, subject to paragraphs 7 and 8 of this Section;
  - vi. residential development, subject to paragraphs 7 and 8 of this Section;
  - vii. farming, gardening, nursery, conservation, forestry, harvesting, and grazing, subject to paragraphs 7 and 8 of this Section;

**ZONING BY-LAW  
TOWN OF LANESBOROUGH, MASSACHUSETTS**

viii. construction, maintenance, repair, and enlargement of drinking water supply related facilities such as, but not limited to, wells, pipelines, aqueducts, and tunnels.

**7. PROHIBITED USES**

a. The following uses are prohibited within the Water Supply Protection District:

- i. landfills and open dumps as defined in 310 CMR 19.006;
- ii. automobile graveyards and junkyards, as defined in M.G.L. c.140B, s.1;
- iii. landfills receiving only wastewater and/or septage residuals including those approved by the Department pursuant to M.G.L. c. 21 s.26 through s.53; M.G.L. c. 111 s.17; M.G.L. c.83, s.6 and s.7, and regulations promulgated thereunder;
- iv. facilities that generate, treat, store, or dispose of hazardous waste that are subject to M.G.L. c. 21C and 310 CMR 30.00, except for:
  1. very small quantity generators as defined under 310 CMR 30.000;
  2. household hazardous waste centers and events under 310 CMR 30.390;
  3. waste oil retention facilities required by M.G.L. c. 21, s.52A;
  4. water remediation treatment works approved by DEP for the treatment of contaminated waters
- v. petroleum, fuel oil, and heating oil bulk stations and terminals including, but not limited to, those listed under Standard Industrial Classification (SIC) Codes 5983 and 5171, not including liquefied petroleum gas.
- vi. storage of liquid hazardous materials, as defined in M.G.L. c. 21E, and/or liquid petroleum products unless such storage is:
  1. above ground level and on an impervious surface; and
  2. either in container(s) OR above ground tank(s) within a building OR outdoors in covered container(s) OR above ground tank(s) in an area that has a containment system designed and operated to hold either; 10% of the total possible storage capacity of all containers OR 110% of the largest container's storage capacity, whichever is greater.
- vii. storage of sludge and septage, unless such storage is in compliance with 310 CMR 32.30 and 310 CMR 32.31;
- viii. storage of deicing chemicals unless such storage, including loading areas, is within a structure designed to prevent the generation and escape of contaminated runoff or leachate;
- ix. storage of animal manure unless covered or contained within a structure designed to prevent the generation and escape of contaminated runoff or leachate;
- x. earth removal, consisting of the removal of soil, loam, sand, gravel, or any other earth material to within 4 feet of historical high groundwater as determined from monitoring wells and historical water table fluctuation data compiled by the United States Geological Survey,

**ZONING BY-LAW  
TOWN OF LANESBOROUGH, MASSACHUSETTS**

except for excavations for building foundations, roads, or utility works;

xi. discharge to the ground of non-sanitary wastewater including industrial and commercial process waste water, except:

1. the replacement or repair of an existing treatment works that will not result in a design capacity greater than the design capacity of the existing treatment works;
2. treatment works approved by the Department designed for the treatment of contaminated ground or surface water and operating in compliance with 314 CMR 5.05(3) or 5.05(13); and
3. publicly owned treatment works.

xii. stockpiling and disposal of snow and ice containing deicing chemicals brought in from outside the district;

xiii. storage of commercial fertilizers, as defined in M.G.L. c.128, s.64, unless such storage is within a structure designed to prevent the generation and escape of contaminated runoff or leachate.

**8. USES AND ACTIVITIES REQUIRING A SPECIAL PERMIT**

a. The following uses and activities are permitted only upon the issuance of a Special Permit by the Planning Board under such conditions as they may require:

- i. enlargement or alteration of existing uses that do not conform to the Water Supply Protection District
- ii. those activities that involve the handling of toxic or hazardous materials in quantities greater than those associated with normal household use, permitted in the underlying zoning (except as prohibited under paragraph 7). Such activities shall require a Special Permit to prevent contamination of groundwater
- iii. any use that will render impervious any lot or parcel more than 15% or 2,500 square feet, whichever is greater. A system for groundwater recharge must be provided which does not degrade groundwater quality. For non-residential uses, recharge shall be by storm water infiltration basins or similar system covered with natural vegetation, and dry wells shall be used only where other methods are infeasible. For all non-residential uses, all such basins and wells shall be preceded by oil, grease, and sediment traps to facilitate removal of contamination. Any and all recharge areas shall be permanently maintained in full working order by the owner.

**9. PROCEDURES FOR ISSUANCE OF SPECIAL PERMIT**

a. The Special Permit Granting Authority (SPGA) under this bylaw shall be the Planning Board. Such Special Permit shall be granted if the SPGA determines, in conjunction with the Board of Health, Conservation Commission, Water District that the intent of this bylaw as well as its specific criteria, are met. The SPGA shall not grant a Special Permit under this section unless the petitioner's application materials include, in the SPGA's opinion, sufficiently detailed, definite, and credible information to support positive findings in relation to the standards given in this section. The SPGA shall document the basis for any departures from the recommendations of the other Town boards, departments or commissions in its decision.

b. Upon receipt of the Special Permit application, the SPGA shall transmit one copy to the Board of Health,

**ZONING BY-LAW  
TOWN OF LANESBOROUGH, MASSACHUSETTS**

Conservation Commission, Engineer and Water District. Failure to respond in writing within 35 days of receipt shall indicate approval, or no desire to comment. The necessary number of copies of the application shall be furnished by the applicant.

c. The SPGA may grant the required Special Permit only upon finding that the proposed use meets the following standards, those specified in paragraph 6 of this Section and any regulations or guidelines adopted by the SPGA. The proposed use must:

i. in no way, during construction or thereafter, adversely affect the existing or potential quality of quantity of water that is available in the Water Supply Protection District; and

ii. be designed to avoid substantial disturbance of the soils, topography, drainage, vegetation, and other water-related natural characteristics of the site to be developed.

iii. The SPGA may adopt regulations to govern design features of projects. Such regulations shall be consistent with subdivision regulations adopted by the Town of Lanesborough.

iv. The applicant shall file four (4) copies of a site plan and attachments. The site plan shall be drawn at a proper scale as determined by the SPGA and be stamped by a professional engineer. All additional submittals shall be prepared by qualified professionals. The site plan and its attachments shall at a minimum include the following information where pertinent:

1. a complete list of chemicals, pesticides, herbicides, fertilizers, fuels, and other potentially hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use;

2. for those activities using or storing such hazardous materials, a hazardous materials management plan shall be prepared and filed with the Fire Chief and Board of Health. The plan shall include:

A. provisions to protect against the discharge of hazardous materials or wastes to the environment due to spillage, accidental damage, corrosion, leakage, or vandalism, including spill containment and clean-up procedures;

B. provisions for indoor, secured storage of hazardous materials and wastes with impervious floor surfaces;

C. evidence of compliance with the Massachusetts Hazardous Waste Regulations 310 CMR 30.00;19 and

D. proposed down-gradient location(s) for groundwater monitoring well(s), should the SPGA deem the activity a potential groundwater threat.

v. The SPGA shall hold a hearing, in conformity with the provision of M.G.L. c.40A s. 9, within 65 days after the filing of the application.

vi. Notice of the public hearing shall be given by publication and posting and by first-class mailings to "parties of interest" as defined in M.G.L. c.40A s.11. The decision of the SPGA and any extension, modification, or renewal thereof shall be filed with the SPGA and Town Clerk within 90 days following the closing of the public hearing. Failure of the SPGA to act within 90 days shall be deemed as a granting of the permit.



**ZONING BY-LAW  
TOWN OF LANESBOROUGH, MASSACHUSETTS**

**10. ENFORCEMENT**

- a. Written notice of any violations of this bylaw shall be given by the Building Inspector to the responsible person as soon as possible after detection of a violation or a continuing violation. Notice to the assessed owner of the property shall be deemed notice to the responsible person. Such notice shall specify the requirement or restriction violated and the nature of the violation, and may also identify the actions necessary to remove or remedy the violations and preventive measures required for avoiding future violations and a schedule of compliance.
- b. A copy of such notice shall be submitted to the Board of Health, Conservation Commission, and Water District. The cost of containment, clean-up, or other action of compliance shall be borne by the owner and operator of the premises.

**11. SEVERABILITY.** A determination that any portion or provision of this overlay protection district is invalid shall not invalidate any other portion or provision thereof, nor shall it invalidate any Special Permit previously issued thereunder.

**B. FLOOD PLAIN/WETLANDS PROTECTION OVERLAY DISTRICT**

**1. PURPOSES.** The purposes of this district are:

- a. To provide that lands in the Town of Lanesborough subject to seasonal or periodic flooding as described hereinafter shall not be used for residence or other purposes in such a manner as to endanger the health or safety of the occupants thereof.
- b. To protect, preserve and maintain the water table and the water recharge areas within the town so as to preserve present and potential water supplies for the public health and safety of the residents of the Town of Lanesborough.
- c. To assure the continuation of the natural flow pattern of the water course(s) within the Town of Lanesborough in order to provide adequate and safe floodwater storage capacity to protect persons and property against the hazards of flood inundation.

**2. DISTRICT DELINEATION.** The general boundaries of the Flood Plain District are shown on the Lanesborough Flood Insurance Rate Map (FIRM), dated June 15, 1982, Zones A. A 1-30 to indicate the 100 year flood plain. The Exact boundaries of the District are defined by the 100 year water surface elevations shown on the FIRM and further defined by the Flood Profiles contained in the Flood Insurance Study, dated June 15, 1982. The floodway boundaries are delineated on the Lanesborough Flood Boundary Floodway Map (FBFM), dated June 15, 1982, and further defined by the Floodway Data Tables contained in the Flood Insurance Study. These two maps as well as the accompanying study are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Inspector, Selectmen and Assessors. (Definition accepted in February 14, 1983 Special Town Meeting)

**3. USE REGULATIONS.**

- a. The flood plain district shall be considered as overlying other districts, any uses permitted in the portions of the districts so overlaid shall be permitted subject to all the provisions of this section.
- b. In the flood plain district no new building or structure shall be erected, constructed, altered, enlarged or moved, no dumping filling or earth transfer or relocation shall be used for any purposes except:

**ZONING BY-LAW  
TOWN OF LANESBOROUGH, MASSACHUSETTS**

- i. Conservation of water, plants and wildlife.
- ii. Outdoor recreation, including play areas, nature study, boating, fishing and hunting were otherwise legally permitted, but excluding buildings and structures
- iii. Non-commercial signs (as permitted in the residential district), wildlife management areas, foot, bicycle, and/or horse paths and bridges, provided such uses do not affect the natural flow pattern on any water course.
- iv. Grazing and farming, including truck gardening and harvesting of crops.
- v. Forestry and nurseries.
- vi. Dwellings lawfully existing prior to the adoption of these provisions, but not including any enlargement and/or extension thereof.

4. **BOARD OF APPEALS.** In the flood plain district, The Board of Appeals may grant permission for any use and/or structure, subject to the following:

- a. The request has been referred to the Planning Board and the Board of Health for the recommendation of such Boards. In the event that such recommendations are not received within sixty days the Board of Appeals may consider the application without these recommendations.
- b. The land is shown to be neither subject of flooding nor unsuitable for the proposed use because of hydrological and/or topographic conditions.
- c. The proposed use will not be detrimental to the public health, safety and welfare.
- d. The proposed use will comply in all respects to the provisions of the underlying districts within which the land is located.

**SECTION VIII – SPECIAL PROVISIONS**

**A. EROSION AND SEDIMENT CONTROL.** Site design, materials, and methods of construction or operation shall be designed to avoid erosion damage, sedimentation or uncontrolled surface runoff.

- 1. The following requirements must be complied with whether Special Permit is required or not.
  - a. Slopes of 10% or greater which result from grading, construction, or other land alteration shall be stabilized either through a structural retaining wall or cribbing, or through vegetative slope stabilization, comprising not less than 4 inches of topsoil planted densely with plants having shallow fibrous roots sufficient to retain the soil. The Building Inspector may require mulch or other temporary stabilization measures. Either a constructed surface or cover vegetation will be provided immediately following filling or stripping.
  - b. Placing more than 100 cubic yards of fill on any lot or raising ground level by 3 vertical feet or more within any lot shall require a permit from the Building Inspector. Reasonable care shall be taken to avoid harmful diversion of water affecting adjoining properties; that mature trees shall be reasonably protected; that no resultant slope shall exceed one foot vertical to two feet horizontal. Either a constructed surface or vegetation will be provided immediately following fillings or stripping.

**ZONING BY-LAW  
TOWN OF LANESBOROUGH, MASSACHUSETTS**

2. Special Permit required. Each of the following shall require a Special Permit from the Zoning Board of Appeals:

- a. Placing more than 200 cubic yards of fill per acre on any parcel.
- b. Exposing more than two acres of bare earth through either removal or filling unless in conjunction with agricultural activity or in conjunction with road construction.
- c. Construction or grading of more than 3,000 square feet of land where the average natural slope exceeds 25%.

3. Application for Special Permit shall include a plan showing existing and proposed grades at key locations, vegetation (or other surface cover) and description of temporary or permanent impoundment basins or other methods proposed for controlling erosion, sedimentation, or other soil instability during and after construction. The Board of Appeals may require the applicant to submit a report from the USDA Natural Resources Conservation Service (NRCS) or soil loss calculation prepared by a soil scientist or engineer in cases of doubt as to adequacy of proposed measures. The Board may also require the furnishing of a performance bond or other security during the construction period. The Board of Appeals shall obtain a recommendation from the Conservation Commission. Such Special Permit shall be granted only if the Board determines that adequate provisions have been made for control of erosion, sedimentation, and runoff, both during and after construction; for avoidance of unsightly conditions; and for protection against other environmental degradation.

**B. PARKING REQUIREMENTS.** In any district where permitted no use of premises shall be authorized or extended and no building or structure shall be erected or enlarged, unless there is provided for such extension, erection, or enlargement, off-street automobile parking space indoors, or if outdoors, treated with a surface binder, gravel, or crushed stones, within 300 feet of the main building, structure or use of the premises, in accordance with the following minimum requirements. An area of 200 square feet of appropriate dimensions for the parking of an automobile, exclusive of drives or aisles, shall be considered as an off-street parking space. In the interests of safety, for all uses except single family dwellings, it shall be required that drives be provided so that entry to and exit from said off-street parking spaces does not require the backing of automobiles onto the street.

1. Two spaces for each dwelling unit within the building or buildings on the premises.
2. One space for each sleeping room in a tourist home, boarding house, motel or cabin.
3. One space for each two beds in a hospital.
4. One space for each four beds in a nursing home or rest home.
5. One space for each 200 square feet or fraction thereof of any retail, wholesale, or service establishment,
6. One space for each two employees and one space for each three seats, permanent or otherwise, for patron use for restaurants and other places serving food or beverages, and for theaters, auditoriums, and other places of amusement or assembly.
7. One space for each three persons employed or anticipated to be employed on the largest shift for all types of shops, buildings, storage, manufacturing, or other permitted uses.
8. In the Major Retail District the parking ratio shall be 3.0 spaces per 1,000 sq ft. of Gross Leasable Area (GLA)

**ZONING BY-LAW  
TOWN OF LANESBOROUGH, MASSACHUSETTS**

C. OFF-STREET LOADING REQUIREMENTS. Where use of premises requires frequent truck deliveries, there shall be provided adequate off-street parking for said deliveries. The required area shall be in addition to that required for automobile parking. The access to said off-street loading areas shall not create a traffic hazard. Frequent parking of trucks on a public or private street or way adjacent to the premises shall be considered evidence of the inadequacy of the off-street loading area.

D. SIGNS. Signs shall be allowed only in accordance with the following regulations:

1. PERMITS. No sign shall be erected on any property, or affixed to the outside of any structure without the property owner the same first having obtained thereof a permit from the Building Inspector. A record of all applications, plans and permits shall be kept on file by the Building Inspector.
2. The application for said permit shall be submitted by the property owner and include:
  - a. a plan of the premises or building on which such sign is to be located, including the location of any existing buildings, structures or signs and the location of the proposed sign and shall include a drawing and description of such sign, the foregoing to enable the Building Inspector to determine that such sign will come within the provisions, spirit and intent of this section of this by-law.
3. R, LB AND R-A DISTRICTS. Signs pertaining to the lease, sale or use of a lot or building, not more than two in number, with a total area of two square feet in the R District, and 20 square feet in R-A and LB Districts.
4. B AND I DISTRICTS. One free standing sign shall be permitted per lot. The maximum area of the sign shall be 50 square feet for the first business on the lot. The sign area may increase by 25 square feet per business for each additional business on the lot. Each business on the lot shall be permitted a maximum of two signs attached to the outside of the building. The total area of the two signs shall not exceed 150 square feet.
5. MR DISTRICT:
  - a. Property Owner will be allowed for each retail store (having total square footage greater than 30,000 sq. ft.) to place on its exterior walls 4 (four) building signs not exceeding 365 sq. ft. each.
  - b. Property Owner shall also be allowed for each theater (having total square footage of 20,000 sq. ft. or greater) to place on its exterior walls 3 (three) building signs not exceeding 365 sq. ft. each (these may include signs incorporating video screens and/or digital reader boards) and
  - c. For each restaurant (having a total square footage of 5,000 sq. ft. or greater), Property Owner shall be allowed to place on its exterior walls 1 (one) building sign not to exceed 100 sq. ft.
  - d. Property Owner shall have the right to 1 (one) building sign at each exterior common canopy entrance not to exceed 90 sq. ft. each
  - e. Property owner shall have the right to 1 (one) additional exterior building sign for every 50,000 sq. ft of total shopping center building square footage not to exceed 365 sq. ft. each at locations and for purposes of it choosing (these may include signs incorporating video screens and/or digital reader boards).
  - f. Property Owner shall be allowed 6 (six) free standing directional signs not to exceed 12'H x 9' L x 2' 6" D each and 2 (two) free standing pylon signs not to exceed 35' H x 26' L x 6'.

**ZONING BY-LAW  
TOWN OF LANESBOROUGH, MASSACHUSETTS**

6. **TEMPORARY SIGNS AND OFF-PREMISES SIGNS.** No signs shall be located off the premises to which it applies; except that directional, informational, or signs for identification may be allowed by permit issued by the Building Inspector where such signs shall serve the public convenience and not be detrimental to the neighborhood with respect to size, location, or design. Such permits shall not be valid for more than 90 days. Temporary signs used in MR District shall be constructed of a solid, durable material. No Banners or streamers are allowed in any district.

7. **PUBLIC SAFETY REQUIREMENTS.** In the interest of public safety, the following regulations shall be required:

- a. Signs shall not protrude or extend more than six inches over public property, or more than eighteen inches from the exterior of a building in the MR District except by authorization of the Zoning Board of Appeals under Section IX-D1.
- b. Blinking lights, blinking illuminated signs, signs with moving parts, and signs making noises shall not be permitted.
- c. Signs shall not be hung from, or in any way affixed to any other sign.
- d. Signs shall be setback a minimum of ten (10) feet from any lot line.
- e. Any spotlight illuminating a sign shall be controlled so as not to have the beams cast into the eyes of oncoming motorists or onto any adjacent residential premises.

8. **NON-CONFORMING SIGNS.** Any sign legally in existence at the time of adoption of this by-law, may be continued in use. If such sign or billboard is removed or altered by act of nature, vandalism or accident, it may be restored to its former condition. If such sign needs to be changed, painted, re-lettered or repaired, the same may be done, provided, however, where such restoration, repair or change would allow conformity with the provisions of Paragraph 6 above, without undo expense, the conformity shall be required, under no other circumstances may any non-conforming sign or billboard be restored, replaced or re-erected.

**E. FENCING.**

- 1. Storage and junk yards shall be concealed from view from abutting premises and the street by a suitable and well-kept fence. A permit for such fence shall be obtained from the Building Inspector, the application for which shall include a written description of such fence. Before issuing the permit, the Building Inspector shall determine that such a fence will meet the provisions of this by-law and will not detract from the neighborhood.
- 2. Non-agricultural fencing shall not interfere with traffic safety, and shall require a permit from the Building Inspector.
- 3. A permit request for a non-agricultural residential boundary fence shall include a survey of the property line in question. This requirement may be waived with the written consent of the affected abutter.
- 4. Boundary fences shall be erected with the finished side facing abutting properties

**F. VISIBILITY AT CORNERS.** On any corner lot there shall be no building, structure, shrubbery, planting, or fence other than of flat woven or welded wire construction, such as will obstruct traffic visibility, within the height of two and one-half (2 1/2) and ten (10) feet above the plane of the intersecting streets and within the area formed by the intersecting street lines and a straight line joining such street lines at points which are 25 feet distant from the point of intersection, measured along such street lines.

**ZONING BY-LAW**  
**TOWN OF LANESBOROUGH, MASSACHUSETTS**

G. FAST-FOOD EATING ESTABLISHMENTS. Any free-standing fast-food eating establishment shall:

1. Require a Special Permit from the Planning Board under the provisions of Chapter 40A of the General Laws as amended
2. Comply as a minimum with the requirements and procedures listed below:
  - a. Location and access ways:
    - i. Minimum lot size 87,120 square feet (2 acres) with a minimum frontage of 200 feet, a minimum front setback of 50 feet, and a buffer zone of 50 feet if located adjacent to any residential or institutional use. These requirements shall apply whether this use is freestanding or connected to another structure.
    - ii. The proposed use shall be so located with relation to major thoroughfares and uses in the neighborhood as not to create traffic hazards and as not to adversely affect such other uses in the neighborhood.
    - iii. The proposed use shall not draw excessive traffic to and through local streets in nearby residential areas.
    - iv. The location of any driveways that provide access and exit to the proposed use shall not be less than 100 feet from the adjacent lot line of a Residence District, residential or institutional use or park or playground.
    - v. Within the property's boundaries, vehicular and pedestrian circulation facilities shall be provided for safe and convenient use in accordance with site planning standards.
    - vi. Conform with performance standards set forth in this by-law.

H. FILLING STATIONS AND CONVENIENCE STORE REQUIREMENTS. Any filling stations or convenience stores shall:

1. Require a Special Permit from the Board of Appeals under the provisions of Chapter 40A of the General Laws as amended.
2. Be designed to conform to the following requirements which shall apply whether the use is freestanding or connected to another structure.
  - a. The minimum lot area shall be 43,560 square feet (one acre).
  - b. The minimum frontage on a street shall be 150 feet.
  - c. The width of driveways and sidewalk openings measured at the street lot line shall be 25 feet.
  - d. The minimum distance of driveways measured at the lot line shall be twenty (20) feet.
    - i. from the corner line shall be 35 feet.
    - ii. from the interior side lot line shall be 20 feet.
    - iii. from other driveways on the sale lot shall be 20 feet.

**ZONING BY-LAW  
TOWN OF LANESBOROUGH, MASSACHUSETTS**

- e. The minimum setback of any building from all street lot lines shall be 40 feet.
- 7. No part of any structure shall be located nearer than 20 feet to any street boundary.
- 8. A raised curb at least 6 inches in height shall be constructed and maintained along the edges of all pavement on the lot except at the bases of buildings and at driveway openings.
- 9. If a convenience store or filling station is located adjacent to a residential or institutional use, a buffer zone of 40 feet shall be provided.
- 10. Conform with the performance standards as set forth in this by-law.
- 11. No motor vehicle repairs shall be performed.
- 12. The area of the lot not planted and so maintained shall be graded, surfaced with asphalt or other suitable material, and drained to the satisfaction of the Building Inspector, to the extent necessary to prevent nuisances of dust, erosion, or excessive water flow across the public ways.

**I. RETAIL, SERVICE AND INDUSTRIAL COMPLEXES**

1. **PURPOSE.** It is the purpose of these requirements to provide regulations and conditions for the planning and design of shopping centers, plazas and malls, industrial complexes, industrial parks and industrial buildings in order to:

- a. Ensure harmony with the purpose of the By-Law.
- b. Control the impacts of major commercial and industrial developments on the surrounding area and the town as a whole.
- c. Encourage the design of commercial and industrial facilities to be compatible with the special conditions of the site and the character of the area.
- d. Preserve and enhance the environmental quality of the town.
- e. Make the most economical use of energy resources, municipal services, streets, and utilities.

2. **DEFINITION – RETAIL, SERVICE AND INDUSTRIAL COMPLEX.** A building or complex of buildings for retail, commercial or industrial, or office, hotel, motel or other service uses with a gross floor area of 5,000 square feet or greater on a common site or sites of two (2) acres or greater which is integrated in terms of utilities and services and/or in respect to the conduct of business activities on the site.

**3. REQUIREMENTS.**

- a. Any proposed building or complex as defined shall conform to the requirements of this section as set forth and shall require a Special Permit from the Planning Board under the provisions of Section 9, Chapter 40A of the General Laws as set forth and shall be subject to the following special requirements which are in addition to, or in modification of, other applicable provisions and requirements of the By-Law. This provision shall also apply to the expansion of any such existing facility which is or creates a shopping center, plaza or mall, industrial complex, industrial park or industrial building, or office or hotel or motel or service establishment, as defined by this By-Law.
- b. Site Requirements

**ZONING BY-LAW  
TOWN OF LANESBOROUGH, MASSACHUSETTS**

- i. Stores, public spaces, parking, loading areas, and other uses shall be located on the site and be designed to provide a safe, convenient and attractive environment which is compatible with the surrounding areas and to ensure harmony with the purpose of this By-Law.
- ii. A circulation system shall be designed for automobiles, public transportation vehicles, pedestrians, wheelchairs, and emergency service and delivery vehicles, so that circulation routes are clearly defined and provisions for safety are made, especially at points where circulation routes intersect.
- iii. The site shall be designed so as to adequately accommodate storm drainage and snow removal.
- iv. The proposed use shall be so located with relation to major thoroughfares and uses in the neighborhood, as not to affect other uses in the neighborhood, and as not to create traffic hazards or congestion.
- v. The proposed use shall be designed to minimize excessive traffic to and through local streets in nearby residential areas.

c. Impact Statement. The application for such shopping center, plaza, mall, industrial complex, industrial park or industrial building, or office or hotel or motel or service establishment must be accompanied by an impact statement prepared by a duly authorized engineer, planner architect, landscape architect and/or land surveyor or a combination thereof as appropriate which details the probable effect of the proposed development both during construction and after completion. The proposed development shall not create any undue adverse impacts as identified by the impact statement and the analysis reports of the various town boards and departments. Some or all of the Impact Statement requirements may be waived at the discretion of the Planning Board. All appropriate reports shall be submitted to the Planning Board prior to 14 days before the public hearing. This impact statement shall be comprehensive enough to enable the Planning Board and other reviewing agencies to make valid judgments based upon it and must include the following:

- i. An analysis of resulting demands on public utilities and services and on future demand for them, including, but not limited to, sewer, water, and drainage systems, police, fire and public works.
- ii. An analysis on increased traffic volumes and the effect of this increase on nearby uses and area.
- iii. An analysis on architectural, site planning, and other design features assuring environmental quality of the facility and compatibility with the surrounding areas.
- iv. A report of anticipated effects of demolition or alteration of existing buildings, if any.
- v. A report of architectural, site planning, and other design features assuring public safety in both day to day and emergency situations.
- vi. An engineering report detailing the effect on nearby water systems such as, but not limited to, aquifers, groundwater supplies, wetlands, rivers, lakes and floodplains, including erosion and siltation during the construction and other impacts on natural resources and environments, and proposed controls to minimize adverse impacts.
- vii. An impact study on local wildlife and its habitat.

d. Action By The Planning Board. In reviewing an application for determination that a proposal under this section meets the site requirements and will not create undue adverse impacts, the Planning Board shall consider:



**ZONING BY-LAW  
TOWN OF LANESBOROUGH, MASSACHUSETTS**

- i. The development plans.
- ii. The impact statement.
- iii. The reports of the Public Works Department, Building Inspector, Health Department, Water District, Highway Department, Fire Department, Police Department, and Conservation Commission analyzing the developing plans and verifying the impact statement.
- iv. Overall design of the development and the location, spacing, bulk, and height of proposed buildings and structures, and their effect on adjacent uses and the surrounding area.
- v. Vehicular and pedestrian traffic within the site and in the surrounding area.
- vi. Architectural and open space design features enhancing the comforts, convenience, and amenities for shoppers, employees, others using the facility; enhancing the general appearance of the development; or contributing to public health, safety, or welfare.
- vii. Provisions for off-street parking and loading facilities as per Section VIII-B and VIII-C.
- viii. Character, size, mix, and compatibility of the proposed uses and their effect on the existing uses and environment in the area.
- ix. Consistency with the Zoning By-Law of Lanesborough, Massachusetts, Federal, State or Local land use regulations and plans.

4. **APPLICABILITY.** Any other provision of these By-Laws to the contrary notwithstanding, the provisions of this Section VIII-I shall not apply in any way to any project for which a building permit has been issued prior to the effective date of this Section VIII-I and/or for which clearing, grading, earthwork, general site work and/or construction related activities have been commenced prior to the effective date of this Section VIII-I.

**J. WIRELESS COMMUNICATIONS FACILITIES.**

1. **PURPOSE:** The Town of Lanesborough seeks to allow telecommunications and wireless services with minimal effect to the public health, safety and general welfare, and to minimize the visual impact of such facilities.

2. **DEFINITIONS:**

**Above Ground Level (AGL):** a measurement of height from the natural grade of a site to the highest point of a structure.

**Co-locate:** A term meaning that more than one wireless communications facility can be installed and operated on a single tower.

**Elevation:** The measurement of height above sea level.

**Monopole:** A Style of tower characterized by a single round pole having the general configuration of a flag pole. The monopole does not appear to be significantly larger at its base than at the point of maximum height.

**Telecommunications tower:** A structure with antennas, if any, designed to facilitate the following types of services: cellular telephone service, personal communications services, and/or enhanced specialized mobile radio services.

**ZONING BY-LAW  
TOWN OF LANESBOROUGH, MASSACHUSETTS**

**Wireless Communication Facility:** Any tower (including antennas, if any), or antenna placed on existing buildings or structures, or any device, wiring or equipment designed to facilitate or be utilized in connection with the provision of the following types of specialized mobile radio service as well as any structures, buildings and/or appurtenances utilized primarily for the installation and operation of equipment necessary for the provision of such services. This definition does not include an antenna used by a federally licensed amateur radio operator. This definition does not include TV antennas or satellite dishes.

**SPGA:** Special Permitting Granting Authority

**Lattice:** Open Structure Tower

**Monitoring Protocol:** The testing protocol, initially the Cobbs Protocol, which is to be used to monitor the emissions from existing and new communications wireless facilities.

**EMF:** Electro Magnetic Field

**Non-operational:** The unexcused failure to daily operate the facility, except for repair, refurbishment or upgrading for a consecutive period of one year or more.

3. SPECIAL PERMIT REQUIREMENTS. A wireless communications facility shall require a building permit in all cases and may be permitted as follows:

- a. All wireless communication facilities shall require a Special Permit from the Planning Board. (SPGA)
- b. For new tower construction, or major modifications of an existing tower, a tower construction Special Permit is required.
  - i. The applicant shall provide a written, irrevocable commitment valid for the duration of the existence of the tower, to rent or lease available space for collocation on the tower at fair market prices and terms, without discrimination to other wireless communications providers.
  - ii. If the applicant is not simultaneously applying for a communications wireless facilities Special Permit, it shall provide a copy of its existing lease/contract with a wireless communications provider. A facility construction Special Permit shall not be granted for a tower to be built on speculation.
- c. If the applicant is not the owner of the property, the property owner shall sign the application. The applicant shall also submit a signed contract between the applicant and the property owner. If the property owner is a public entity, the applicant shall submit authorization from the entity. If the owner is the Town of Lanesborough, a lease agreement between the Town and the applicant shall establish authorization from the Town.
- d. No wireless communications facilities shall be erected or installed except in compliance with the provisions of this Section. Any proposed modifications to an existing wireless communications facility including, but not limited to extension in the height, addition of antennas or panels, or construction of a new or replacement facility shall be subject to these provisions and shall require a new application. The SPGA may, at its discretion, waive any application requirements for modifications to existing facilities.
- e. Wireless communication facilities shall, if feasible, be located on pre-existing load-bearing structures, buildings or towers, provided such installation shall preserve the character of the structure, building or tower. The

**ZONING BY-LAW  
TOWN OF LANESBOROUGH, MASSACHUSETTS**

applicant shall demonstrate that there are no pre-existing structures, buildings or towers available prior to approaching the SPGA with an application proposing the construction of a new structure or mount for an antenna.

f. Providers of wireless communication services shall report to the Building Inspector and the SPGA any cessation in the use or operation of any wireless communications facility that exceeds 30 days. All facilities, attachments, and accessory structures which have not been used for a period of one (1) year shall be dismantled and removed at the applicants or property owner's expense.

4. **SITING AND CONSTRUCTION GUIDELINES.** The following guidelines shall be used when preparing plans for the siting and construction of all wireless communications facilities:

a. To the maximum extent possible, all services providers will co-locate on a single structure. Structures shall be designed to accommodate the maximum number of users technologically practical. The intent of this condition is to reduce the number of towers located within the Town of Lanesborough.

b. The base of the tower, including any attachments, shall be set back a minimum of 150% of its' vertical height from any property boundary or existing residential or public structure erected nearer to any existing residential or public structure.

c. All towers shall be pre-engineered to fail at a pre-determined height enabling the structure to collapse upon itself in the event of a catastrophic failure.

d. No wireless communications facility shall exceed 150 feet in height as measured from the mean finished grade at the base of the tower. Exterior lighting of the towers and any accessory structures shall be prohibited.

e. Siting shall be such that the view of the facility and tower shall be as limited as possible when viewed off site. Facilities shall be screened to provide an effective year round visual buffer. The buffer shall be of sufficient height and depth to sufficiently screen the facility. The SPGA shall determine the types of plants and materials and the size of the buffer based on conditions of the site. Existing vegetation shall be used for screening wherever possible.

f. Existing on site vegetation shall be preserved to the maximum extent practicable. Clearing of land shall be performed in a manner which will maximize preservation of natural beauty and conservation of natural resources.

g. All wireless communications facilities shall be painted, colored, and/or constructed of materials that minimize glare.

h. Fencing shall be provided to control access to wireless communications facilities and shall reflect the visual character of the neighborhood or natural surroundings.

i. Signage is limited to providing the following information, and must adhere to the Town's current signage by-law: the facility, the owner and operator and an emergency telephone number where the owner can be reached on a 24 hour basis must be clearly displayed; a no trespassing sign; a sign displaying the Federal Communications Commission registration number; and any signs required to warn of danger.

j. Site parking shall be provided so as to not block the access road at any time.

k. There shall be no on site storage of any kind.

l. All network interconnections from the communications site shall be buried.

**ZONING BY-LAW  
TOWN OF LANESBOROUGH, MASSACHUSETTS**

m. Monitoring and evaluation of Compliance.

i. Pre-testing. After the granting of a Special Permit and before the applicant's wireless communications facilities begin transmission, the applicant shall pay for an independent consultant, hired by the Town of Lanesborough, to monitor the background levels of EMF radiation around the proposed facility site and/or repeater locations to be utilized for the applicant's wireless communications facilities. The independent consultant shall use the Monitoring Protocol. A report of the monitoring results shall be prepared by the independent consultant and submitted to the Building Inspector, the Board of Health, the Board of Selectmen, the Town Clerk and the SPGA.

ii. Post Testing. After transmission begins, the owner(s) of any wireless communications facility(ies) shall pay for an independent consultant hired by the town, to conduct testing and monitoring of EMF radiation emitted from said site, and to report results of said monitoring as follows:

1. There shall be routine annual monitoring of emissions by the independent consultant using actual field measurements of radiation, utilizing the Monitoring Protocol. This monitoring shall measure levels of EMF radiation from the wireless communications facility site's primary antennas as well as from repeaters (if any). A report of the monitoring results shall be prepared by the independent consultant and submitted to the Building Inspector, the Board of Health, the Board of Selectmen, the Town Clerk and the SPGA.
2. The activation of any additional permitted channels, or an increase of radiated power of 25% or more, shall require a new test of the EMF.

iii. Excessive emissions: Should the monitoring of a Wireless Communication Facility site reveal that the site exceeds the FCC 96-326 standard (or current standard), then the permit holder of all facilities utilizing that site shall be so notified. The permit holder shall submit to the Building Inspector a plan for the reduction of emissions to a level that complies with the FCC 96-326 standard (or current standard) within 10 business days of notification of noncompliance. That plan shall reduce emissions to the standard within 14 days of initial notification of noncompliance. Failure to accomplish the reduction of emission within 14 days of initial notification of noncompliance shall be a violation of the Special Permit and subject to enforcement as specified in Section X-C of the Town of Lanesborough Zoning By Laws. If public health is at issue, the Building Inspector shall issue a cease and desist order to the owners. The owner(s) of the facilities and antennas on the facility site are the responsible parties and shall be held accountable until compliance is achieved.

iv. Operational Noise, as measured by the latest standards of the American Standards Institute, shall not exceed 60 decibels for more than 15 minutes in any one-day when measured from an unobstructed distance from the nearest inhabited structure, except for temporary construction or maintenance work, and shall not likewise exceed 40 decibels from 1,000 feet.

v. Structural Inspection: Permit holders shall pay for an independent consultant (a licensed professional structural engineer), hired by the town, to conduct inspections of the towers structural integrity and safety. Towers shall be inspected every 5 years. A report of the inspection results shall be prepared by the independent consultant and submitted to the Building Inspector. Any major modification of an existing facility that includes changes to tower dimensions or antenna numbers or type shall require a new structural inspection.

vi. Unsafe Structure. Should the inspection of any tower reveal any structural defect(s) which, in the opinions of the independent consultant render(s) that tower unsafe, the following actions must be taken within 10 business days of notification of unsafe structure: the permit holders of the tower shall submit a plan to remediate the structural defect(s). This plan shall be initiated within 10 days of the submission of

**ZONING BY-LAW  
TOWN OF LANESBOROUGH, MASSACHUSETTS**

the remediation plan and completed as soon as reasonably possible. Failure to accomplish this remediation plan of structural defect(s) within 10 business days of initial notification shall be a violation of the Special Permit and subject to enforcement as specified in Section IX-C of the Town of Lanesborough Zoning By Laws. The owner(s) of the facilities and antennas on the facility site are the responsible parties and shall be held accountable until compliance is achieved.

**5. APPLICATION REQUIREMENTS.** For an application to be considered complete, the following information must be submitted:

- a. A color photograph or rendition of the proposed Wireless Communication Facility including, but not limited to, the proposed tower with its antenna and/or panels. A rendition shall also be prepared illustrating views of the proposed Wireless Communication Facility from the surrounding areas.
- b. A landscape plan showing the proposed site before and after development including topography and screening proposed to protect abutters.
- c. A description of the Wireless Communication Facility including, but not limited to. The height of any towers and antennas, access roads and power supplies, the type, size and number of transmitters and a technical report which demonstrates that the maximum height of the installation is the minimum feasible to provide the intended service.
- d. The technical and other reasons for the proposed location, height and design including, but not limited to, a survey of all sites which are feasible for providing the intended services both within and directly adjacent to the Town of Lanesborough and the reason(s) the proposed site was selected over at least one alternative site.
- e. A survey of all pre-existing structures, buildings or towers which are capable of supporting the equipment necessary to provide the intended service, and a technical report, which demonstrates why any such structure, building or tower cannot be used by the applicant.
- f. A description of the capacity of the tower including the number and type of panels antenna and/or transmitter receivers that it can accommodate, and the basis for these calculations.
- g. A statement that the sound levels under normal operating conditions, whether emanating directly from, or as a result of the natural wind blowing throughout the wireless communications facility, measured at the boundary of the lot on which it is sited, shall not be greater than 60 decibels at the property line. Any supplemental or back up generators shall have residential type mufflers.
- h. A statement of the intended coverage area to be supported by the proposed Wireless Communication Facility and delineation on the zoning district map of all areas in the Town of Lanesborough, which will not be served by the proposed installation for the primary site and alternate site.
- i. A description of the special design features utilized to minimize the visual impact of the proposed wireless communication facilities, such as but not limited to glare, lighting, and other unique aspects at the site, deemed appropriate by the SPGA.
- j. If the applicant is not simultaneously applying for a personal wireless service facilities Special Permit, it shall provide a copy of its existing lease/contract with a Wireless Communication Facility provider. A tower construction permit shall not be granted for a tower to be built on speculation.
- k. Within thirty days after filing the application for any new tower or extension in height thereto, the applicant

**ZONING BY-LAW  
TOWN OF LANESBOROUGH, MASSACHUSETTS**

shall arrange to fly a balloon at the primary and an alternate site at the maximum height of the proposed installation on a weekend day between the hours of 10:00 AM and 4:00 PM. The balloon shall be of a size and color that can be seen from every direction for a distance of one mile. The applicant shall be responsible for posting the date and location of the balloon(s) as a legal advertisement at least 14 days, but not more than 21 days before the flights in a least two different issues of a newspaper with a general circulation in the Town of Lanesborough.

l. A bond for removal of the tower equal to the cost of removing the tower facilities, within 180 days of being deemed Non-operational.

m. An applicant must execute a covenant with the SPGA agreeing to remove, within 180 days of notice from the Town of Lanesborough, the Wireless Communication Facility not-operational for a period of twelve months, unless the reason for the Non-operation status is the result of major natural occurrence.

n. The SPGA may impose as a condition of any facility Special Permit that the project proponent be required to mitigate any radio or television interference demonstrated to have resulted from the operation of the facility.

**K. EXTERIOR DINING AND ENTERTAINMENT AREAS.** Permanent exterior dining areas which are accessory to restaurants, cafés, coffee shops, ice cream shops and similar food service establishments shall be allowed only in accordance with the following regulations:

**1. LOCATION:**

a. All exterior dining areas shall not be within 200 feet of a residential use unless a visual barrier is established. Such visual barrier shall be a minimum of 6 feet in height and may be solid fencing and/or vegetative screening.

**2. LIMITATION OF USE:**

a. All such areas shall be limited to the consumption of food and beverages. Additionally, live entertainment and/or recorded music shall be reasonably permitted with a required Entertainment License from the Board of Selectmen.

b. Hours of operation for exterior dining areas will be limited to 9 AM to 11 PM Sunday through Thursday and 9AM to 1 AM on Friday and Saturday.

**3. PUBLIC SAFETY/SANITATION:**

a. All exterior dining areas must provide barriers in the form of fencing, bollards, railings, or hard/soft landscaping features to minimize pedestrian conflicts with motor vehicles or other pedestrian areas

b. All exterior dining areas must provide for the management of waste.

**L. SPECIAL EVENTS.** Special Events: Events that are temporary in nature such as carnivals, circuses, fairs and similar activities taking place within the Town and are located at the exterior of the premises, and which occupy more than 2,500 sq ft and/or include construction of temporary structures (tents, sheds, etc.) are allowed by a special event license granted by the Board of Selectmen. Property Owner will be responsible to gather sufficient input from fire, police, health departments and building inspector. This information, as well as a summary of the event including the location, time & date, duration, proof of insurance and general activities shall be presented to the Select

**ZONING BY-LAW  
TOWN OF LANESBOROUGH, MASSACHUSETTS**

Board for their review and consideration. Applications not acted on in 45 days will be considered approved. No Special Event License will be required for events taking place within the interior of the premises.

**M. OUTDOOR ADVENTURE RECREATION FACILITY** – Any Outdoor Adventure Recreation Facility shall:

1. Require a Special Permit from the Planning Board under the provisions of Chapter 40A of the General Laws as amended, and
2. Comply at a minimum with the following requirements:
  - a. Minimum Lot Size of Ten (10) Acres with minimum frontage of 400 feet, a minimum front yard setback of 50 feet, and a buffer zone of 50 feet if located adjacent to any residential or institutional use.
  - b. A minimum of 75% of course elements shall be suspended by trees or other natural features and not be telephone poles or other man made appurtenances.

**SECTION IX - PERMITS**

**A. APPLICATIONS FOR PERMITS**

1. No building shall be constructed, reconstructed or added to without a building permit having been issued by the Building Inspector. No permit shall be issued until all such construction, alteration, addition or the use thereof shall comply in all respects to the provisions of this By-Law or with a decision rendered by the Zoning Board of Appeals, nor unless or until the town Board of Health has approved those features of such building or use which come under its jurisdiction.
2. Any application for such a permit shall be accompanied by a plan, drawn with sufficient accuracy to allow the Building Inspector to establish the conformity of such building or use with this By-Law provided that in R-A Districts such plan shall only be required to include the area within 200 feet of the outside lines of the proposed structure. Such plan shall show the actual shape and dimensions of the lot to be built upon, the location, size and sill elevation above finished grade of all buildings or structures already on the lot, the location, size and sill elevation above finished grade of new buildings or structures to be constructed, together with the lines within which all buildings or structures are to be erected, the existing and intended use of each building or structure, the location of sewage disposal systems, provisions for necessary storm drainage, and such other information as may be necessary to provide for execution and enforcement of this By-Law. A record of all applications, plans, and permits shall be kept on file by the Building Inspector.
3. Where a lot, in accordance with the intensity regulations given in Table 1, may contain only one dwelling, the Building Inspector may issue a permit for the building of a new dwelling prior to the removal of an existing dwelling provided that at the same time said Building Inspector shall issue a non-renewable permit for temporary occupancy of the existing dwelling for a period not to exceed six months, provided further that such existing dwelling be removed within nine months of the date of said permits, and that the new dwelling complies with all of the provisions of this By-Law.
4. Any violation of Chapter 131, Section 40 of the Massachusetts General Laws (Wetlands Protection Act) shall prohibit the issuance of the building permit. If a building permit is in existence at the time of the violation, that permit will be rescinded until receipt of Certificate of Compliance from the Conservation Commission.
5. If construction or operations under a building permit has not begun within six months from the date of issue of the permit, the permit is void. If the permit holder applies for a new permit, construction or operations must comply with any amendments that have come into effect since the date of issue of the voided permit. Construction under a building

**ZONING BY-LAW  
TOWN OF LANESBOROUGH, MASSACHUSETTS**

permit shall conform to any subsequent amendment of the By-Law unless construction is continuing through to completion as continuously and expeditiously as is reasonable.

**B. SPECIAL PERMITS**

1. **SPECIAL PERMIT GRANTING AUTHORITY.** Any Board designated as Special Permit Granting Authority in the By-Law may hear and decide upon applications for Special Permits upon which such Board is specifically authorized to act under this By-Law in accordance with the provisions of Section 9, Chapter 40A of the General Laws.

2. **REQUIRED HEARING AND NOTICE.** Special Permits may be issued only following public hearings held within sixty-five (65) days after filing of an application with the Special Permit Granting Authority. Notice of Public Hearing shall be given by the Special Permit Granting Authority by publication in a newspaper of general circulation in the town once in each of two successive weeks, the first publication to be not less than fourteen (14) days before the day of the hearing and by posting such a notice in a conspicuous place in the town hall for a period of not less than fourteen (14) days before the day of such hearing, and by mailing it to "Parties In Interest" as provided in Section 11, Chapter 40A (G.L.) which include the Planning Board, and the Planning Board of every abutting municipality, the petitioner, abutters, owners of land directly opposite on any public or private street or way, and the owners of land within three hundred feet of the property line, all as they appear on the most recent applicable tax list, as certified by the Board of Assessors.

3. **REVIEW BY OTHER BOARDS AND AGENCIES.** The Special Permit Granting Authority within ten (10) days after receipt of an application for a Special Permit shall transmit, for review, copies thereof to the Board of Health, the Planning Board, the Board of Selectmen, the Conservation Commission, the Board of Water Commissioners of the Lanesborough Village Fire and Water District, the Zoning Board of Appeals and any other town board or agency at the discretion of the Special Permit Granting Authority. All boards or agencies to which such application is referred for review shall make, in writing, to the Special Permit Granting Authority such recommendations as they deem appropriate. Failure of a board or agency to make such recommendation within thirty-five (35) days of receipt by such board or agency of the application for review shall be deemed lack of opposition thereto.

4. **FINDINGS REQUIRED.** Before granting a Special Permit for any use requiring such permit under the provisions of this By-Law, The Special Permit Granting Authority shall find that the proposed use:

- a. Is in compliance with all provisions and requirements of this By-Law, and in harmony with its general intent and purpose.
- b. Is essential or desirable to the public convenience or welfare at the proposed location.
- c. Will not be detrimental to adjacent uses or to the established or future character of the neighborhood.
- d. Will not create undue traffic congestion, or unduly impair pedestrian safety.
- e. Will not overload any public water, drainage or sewer system or any other municipal facility to such an extent that the proposed use or any existing use in the immediate area or in any other area of the town will be unduly subjected to hazards affecting public health, safety or general welfare.

5. **CONDITIONS, SAFEGUARDS AND LIMITATIONS.** Special Permits may be issued subject to such conditions, safeguards or limitations as the Special Permit Granting Authority may impose for the protection of neighboring uses or otherwise serving the purpose of this By-Law. Such conditions, safeguards or limitations may include, but are not limited to, the following:

- a. Front, side or rear yards greater than the minimum required by this By-Law: screening buffers or planting



**ZONING BY-LAW  
TOWN OF LANESBOROUGH, MASSACHUSETTS**

strips, fences or walls as specified by the Authority.

b. Limitations upon the size, number of occupants, method and time of operation time duration of the permit, or extent of facilities.

c. Regulation of number or location of driveways, or other traffic features; and off-street parking or loading, or other special features beyond the minimum required by this By-Law. Any conditions, safeguards or limitations shall be imposed in writing and shall be made a part of the Special Permit and of the building permit, if any.

6. **SITE PLAN REQUIRED.** Any application for a Special Permit in Zones B, LB, MR or I shall be accompanied by a site plan drawn to scale indicating the location, size and height of proposed buildings, site improvements, and containing such other information as may be required by the Special Permit Granting Authority.

7. **DECISIONS AND VOTE REQUIREMENTS.** The Special Permit Granting Authority shall act within ninety (90) days following the date of the public hearing. Failure to take final action upon an application for Special Permit within said ninety (90) days shall be deemed to be a grant of the permit applied for. A Special Permit issued by a Special Permit Granting Authority shall require a two-thirds vote of boards with more than five members, a vote of at least four members of a five member board and a unanimous vote of a three member board.

8. **EXPIRATION OF SPECIAL PERMIT.** A Special Permit shall lapse in one (1) year, which shall not include such time required to pursue to await the determination of an appeal as allowed by Section 27, Chapter 40A of the General Laws, if a substantial use or construction has not begun under the permit by that date, except for a good cause.

**C. SITE PLAN REVIEW.**

1. **APPLICABILITY.** To assist in assuring compliance with the Zoning Bylaw, any use subject to Site Plan Approval shall be established, expanded, erected or externally altered only in conformity with a Site Plan approved by the Special Permit Granting Authority (SPGA). Site Plan approval will be required of all uses in B, LB, MR, and I districts, except for agricultural, horticultural, floricultural and viticultural uses. Site Plan Approval is required for construction, major exterior alteration or exterior expansion of, or change of use within an institutional, commercial, industrial, multi-family structure with four or more dwelling units, or residential use exceeding a total gross floor area of 3,000 square feet. Site Plan Approval is also required for construction or expansion of a parking lot for an institutional, commercial, industrial, or multi-family structure or purpose. Agricultural, horticultural, floricultural, viticultural, and residential uses not exceeding a total gross floor area of 3,000 square feet are exempt from Site Plan Approval.

2. Ten (10) copies of the Site Plan shall be submitted to the Planning Board. Where a Site Plan is required, the Building Inspector shall issue a building permit only on receipt of an approved Site Plan and a Certificate of Occupancy shall not be issued until completion of all improvements and compliance with the approved Site Plan. Where appropriate, the Planning Board may waive any of the requirements for the Site Plan Application.

3. **REQUIREMENTS.** The Site Plan shall show information as needed to determine compliance with the Zoning By-law and shall be prepared by a Registered Professional Engineer, Land Surveyor, Architect, and/or Landscape Architect. All site plans shall be on standard 24" x 36" sheets and shall include the following:

a. The location and boundaries of the lot, adjacent streets and ways, and the location and owner's names of all adjacent properties;

b. Existing and proposed topography, including contours, the location of wetlands, streams, water bodies, drainage swales, areas within the Flood Plain District, and unique natural land features;

c. Existing and proposed structures both on the property and within two hundred (200) feet of the property lines,

**ZONING BY-LAW  
TOWN OF LANESBOROUGH, MASSACHUSETTS**

including dimensions and elevations;

- d. The location of parking and loading areas, driveways, walkways, ingress and egress points;
- e. The location and description of all existing and proposed septic systems, water supply, storm drainage systems, utilities and refuse and other waste disposal methods both on the property and within two hundred (200) feet of the property lines;
- f. Proposed landscape features, including the location and a description of screen, fencing and plantings;
- g. The location, dimensions, height and characteristics of proposed signs;
- h. The location and a description of proposed open space and recreational areas;
- i. The location and description of the proposed exterior lighting and the hours that it will be in use; and

4. The applicant shall provide written evidence from the Building Inspector, the Board of Health and the Conservation Commission that the proposed use is capable of complying with the Bylaws, rules, and regulations and statutes within their jurisdiction.

5. In reviewing the Site Plan, the Planning Board shall consider the following criteria:

- a. Protection of adjoining premises against detrimental uses by provision for surface water drainage, sound and sight buffers, screening, generation of electrical machine interference, preservation of views, light and air;
- b. Convenience and safety of vehicular and pedestrian movement within the site, location of driveway openings in relation to traffic or to streets serving the site, and when necessary, compliance with other regulations for the handicapped, minors and the elderly, including the location of pedestrian access adjacent to the site;
- c. Adequacy and the arrangement of parking and loading spaces in relation to the proposed uses of the premises and the abutting property;
- d. Adequacy of the methods of disposal of refuse and other waste resulting from the uses permitted on the site;
- e. Relationship of structures and open spaces to the natural and planned landscape, existing buildings and other community assets in the area and compliance with other requirements of the Zoning Bylaws;
- f. Demands on the Town's resources, including effect on the Town's water supply, fire protection, police enforcement and highway department;
- g. Location, size, lighting and appearance of all site signage, traffic and parking lights, fencing, petroleum and chemical storage facilities, fire and life safety equipment.

**6. PROCEDURE**

- a. Administration -The Planning Board shall review all uses and structures subject to the criteria set forth in paragraph 5 of this Section, unless otherwise specified. Approvals require an affirmative vote of three (3) members of the Planning Board. The Planning Board shall adopt reasonable rules and regulations governing the submission, form and procedures for Site Plan Review.

**ZONING BY-LAW  
TOWN OF LANESBOROUGH, MASSACHUSETTS**

b. Fees -The Planning Board may establish and charge reasonable fees for the review of site plan proposals. These fees shall reflect the time and detail required by the Planning Board and/or its designee(s) to responsibly conduct its review.

c. Time Limits -Approval under this Bylaw shall become invalid unless the work or action authorized by it shall commence within one (1) year after the Planning Board has granted such approval and thereafter shall proceed in good faith continuously to completion so far as is reasonably practicable. If the work or action so authorized has not commenced for good cause within one (1) year of its granting, the Planning Board, upon written application prior to the expiration of such time and may grant one (1) or more extensions for time periods not to exceed one (1) year for each extension.

D. ZONING BOARD OF APPEALS. The Zoning Board of Appeals shall act on the following matters:

1. USE VARIANCES. No use variance shall be granted in any zone.

2. DIMENSIONAL VARIANCES. Dimensional variances shall only be granted upon the written finding that each of the following statutory requirements contained in GL c. 40A, s. 10 as amended, have been met by the applicant, as follows:

a. There are circumstances relating to the soil conditions, shape, or topography of the land or structures for which the variance is being sought and such circumstances especially affect such land or structures but do not affect generally the zoning district in which the land or structures are located;

b. Owing to such circumstances, a literal enforcement of the provisions of this By-Law would involve substantial hardship, financial or otherwise, to the petitioner; and

c. The desired relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such ordinance or by-law.

3. SPECIAL PERMITS. The Zoning Board of Appeals shall hear and decide on applications for Special Permits upon which the Zoning Board of Appeals is specifically authorized to act under this By-Law in accordance with applicable provisions of Section IX-B herein.

4. APPEALS. The Zoning Board of Appeals under the provisions of Chapter 40A of the General Laws shall hear and decide appeals by any person aggrieved by reason of his inability to obtain a permit from any administrative board or official under the provisions of this By-Law.

**SECTION X - ADMINISTRATION AND ENFORCEMENT**

A. ZONING ENFORCEMENT OFFICER (ZEO) - Enforcement of this By-Law is vested in the ZEO who is the Building Inspector of the Town of Lanesborough. No permit or license shall be granted for a new use of a building, structure or land which use would be in violation of this By-Law.

B. CONSTRUCTION AND USE TO BE AS PROVIDED IN PERMITS.

1. Special permits or building permits issued on the basis of plans and applications approved by any designated Special Permit Granting Authority authorize only the use, arrangement and construction as set forth in such approved plans and applications. Use, arrangement or construction at variance with that authorized shall be deemed a violation of this By-Law and punishable as provided herein.

**ZONING BY-LAW  
TOWN OF LANESBOROUGH, MASSACHUSETTS**

2. Construction or operation under a building or Special Permit shall conform to any subsequent amendment of this By-Law unless the permit is issued before the first publication of the required notice of public hearing by the Planning Board on such amendment, and the use or construction is commenced within a period of not more than six (6) months after the issuance of the permit, and in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

**C. VIOLATION**

1. If the ZEO is requested in writing to enforce this By-Law against any person allegedly in violation of it and declines to act, he shall notify, in writing, the party requesting such enforcement, of any action or refusal to act, and the reasons therefore, within fourteen (14) days of receipt of such request.

2. Nothing herein contained shall prevent the Town from taking such lawful action as it deems necessary to prevent or remedy any violations.

**D. AMENDMENT**

1. This By-Law may be amended from time to time in an annual or special town meeting in accordance with Chapter 40A, Section 5, of the General Laws.

2. No zoning By-Law or amendment thereto shall be adopted until after the Planning Board has held a public hearing thereon, for which a notice has been published, posted and mailed as provided in Sec. 5, Ch. 40A (G.L.), and has made a report with recommendations to the town meeting or after 21 days shall have elapsed after such hearing without submission of such report.

**E. VALIDITY**

1. In their interpretation and application, the provisions of this By-Law shall be held to be minimum requirements. Wherever the requirements of this By-Law are at variance with the requirements of any other lawfully adopted regulations or By-Laws, or with deed restrictions or covenants, the most restrictive or the one imposing the higher standards shall govern.

2. This By-Law, or any amendment thereto, shall take effect on the date on which such adoption or amendment is voted by the town meeting.

3. The invalidity of any section or provision of this By-Law shall not invalidate any other section or provision thereof.